THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL

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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE

UNREPEALED GENERAL ACTS

OF THE

GOVERNOR GENERAL IN COUNCIL,

WITH

CHRONOLOGICAL TABLE OF ALL UNREPEALED ACTS PASSED BY THE GOVERNOR GENERAL IN COUNCIL WITH AN INDEX.

From 1910 to 1913, both inclusive

VOLUME V

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PREFACE.

THIS, the fifth volume of the General Acts has been compiled on the same lines as the four preceding volumes. An index to the volume is as usual appended.

The Acts included in this volume are printed as modified up to the 31st December, 1927.

A. L. BANERJEE,

Assistant Secretary, Legislative Department,
Government of India.

NEW DELHI,

The 10th January, 1929.

LIST OF ABBREVIATIONS USED.

Aj. Code	For	Ajmere Code.
Bal. Code	,,	Baluchistan Code.
Ben. Code	,,	Bengal Code.
Bom. Code	,,	Bombay Code.
Bur. Code	,,	Burma Code.
C. P. Code	,,	Central Provinces Code.
E. B. and A. Code	,,	Eastern Bengal and Assam Code.
Mad. Code	,,	Madras Code.
P. and N. W. Code	,,	Punjab and North-West Code.
U. P. Code	,,	United Provinces Code.
Coll. Stat.	,,	Collection of Statutes relating to India.
Gen. R. and O.	,,	General Statutory Rules and Orders.
Ben. R. and O.	,,	Bengal List of Local Statutory Rules and Orders.
Bom. R. and O.	,,	Bombay List of Local Rules and Orders.
C. P. R. and O.	,,	Central Provinces List of Local Rules and Orders.
E. B. and A. R. and O.	,,	Eastern Bengal and Assam List of Local Rules and Orders.
Mad. R. and O.	,,	Madras List of Local Rules and Orders.
Punj. R. and O.	,,	Punjab List of Local Rules and Orders.
U. P. R. and O.	,,	United Provinces List of Local Rules and Orders.
Bur. R. M.	,,	Burma Rules Manual.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1910-1913.

(The figures in column 5 refer to pages of this volume).

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1910	III	The Indian Penal Code Amendment Act, 1910.	....	p. 1.
	V	The Dourine Act, 1910 .	Amended, Act 8 of 1920. Declared in force in the Angul District, Reg. 3 of 1913, s. 3.	p. 2.
	VI	The Indian Stamp (Amendment) Act, 1910.	Rep. in part, Act 10 of 1914.	p. 5.
	VII	The Court-fees (Amendment) Act, 1910.	....	p. 7.
	IX	The Indian Electricity Act, 1910.	Amended, Act 10 of 1914; Act 1 of 1922; Act 40 of 1923; Act 37 of 1925. Rep. in part and amended, Act 38 of 1920.	p. 9.
	X	The Indian Museum Act, 1910.	Amended, Act 7 of 1912; Act 17 of 1922; Rep. in part, Act 10 of 1914.	p. 67.
	XII	The Glanders and Farcy Law Amendment Act, 1910.	....	p. 73.
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1911	II	The Indian Patents and Designs Act, 1911.	Amended, Act 17 of 1914; Act 11 of 1923. Rep. in part and amended, Act 29 of 1920. Rep. in part, Act 31 of 1920; Act 12 of 1927.	p. 74.
	IV	The Indian Ports (Amendment) Act, 1911.	....	p. 111.

Chronological Table.

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1 Year.	2 No.	3 Short title or subject.	4 How repealed or otherwise affected by legislation.	5 Where published.
1911	V	The Indian Tramways (Amendment) Act, 1911.	....	p. 113.
	VIII	The Indian Army Act, 1911.	Amended— Act 15 of 1914; Act 10 of 1917; Act 18 of 1919; Act 2 of 1920, Act 33 of 1923. Repealed in part and amended, Act 11 of 1918; Act 37 of 1920 Repealed in pt, Act 12 of 1927. Declared in force— in British Baluchistan, Reg. 2 of 1913, *s.* 3. in the Angul District, Reg. 3 of 1913, *s.* 3.	p. 115
	IX	The Births, Deaths and Marriages Registration (Amendment) Act, 1911.	....	p. 175.
	X	The Prevention of Seditious Meetings Act, 1911.	Rep. in part, Act 12 of 1927.	p. 177.
	XI	The Indian Universities (Amendment) Act, 1911.	....	p. 179.
	XII	The Indian Factories Act, 1911.	Amended, Act 26 of 1926. Rep. in part and amended, Act 2 of 1922; Act 9 of 1923; Rep. in part, Act 10 of 1914.	p. 180.
	XIII	The Indian Christian Marriage (Amendment) Act, 1911.	....	p. 209.

Chronological Table.

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1 Year.	2 No.	3 Short title or subject.	4 How repealed or otherwise affected by legislation.	5 Where published.
1911	XIV	The Court-fees (Amendment) Act, 1911.	....	p. 209.
	XVII	The Indian Aircraft Act, 1911.	Amended, Act 10 of 1914; Act 16 of 1914. Rep. in part, Act 17 of 1914. Declared in force in the Arakan Hill District, Reg. 1 of 1916, *s.* 2.	p. 210.
1912	I	The Indian Stamp (Amendment) Act, 1912.	...	p. 216.
	II	The Co-operative Societies Act, 1912.	Rep. in part and amended, Act 38 of 1920. Rep. in part, Act 17 of 1914. Amended (in U. P.), U P. Act 3 of 1919. Amended (in Madras), Mad Act 10 of 1920. Repealed in its application to Bombay, Bom. Act 7 of 1925. Repealed in its application to Burma, Bur. Act 6 of 1927. Declared in force— in British Baluchistan (with an addition), Reg. 2 of 1913, *s.* 3. in the Arakan Hill District, Reg. 1 of 1916, *s.* 2.	p. 218
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Chronological Table.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1910-1913—*contd.*

1 Year.	2 No.	3 Short title or subject.	4 How repealed or otherwise affected by legislation.	5 Where published.
1912	IV	The Indian Lunacy Act, 1912.	Amended, Act 12 of 1916; Act 6 of 1922; Act 11 of 1923; Act 32 of 1923; Act 33 of 1923; Act 5 of 1926; Act 10 of 1927. Rep. in part and amended, Act 38 of 1920. Rep. in part, Act 17 of 1914; Act 18 of 1919. Declared in force— (except Ch. IV) in the Angul District, Reg. 3 of 1913, *s.* 3. in the Arakan Hill District, Reg. 1 of 1916, *s.* 2. in the Pargana of Manpur, Reg. 2 of 1926, *s.* 2.	p. 239.
	V	The Provident Insurance Societies Act, 1912.	Declared in force in the Arakan Hill District, Reg. 1 of 1916, *s.* 2.	p. 287
	VI	The Indian Life Assurance Companies Act, 1912.	Amended, Act 13 of 1914; Act 24 of 1917. Rep. in part, Act 17 of 1914. Declared in force in the Arakan Hill District, Reg. 1 of 1916, *s.* 2.	p. 296.
	VIII	The Wild Birds and Animals Protection Act, 1912.	Rep. in part, Act 17 of 1914.	p. 329.
	IX	The Presidency Small Cause Courts (Amendment) Act, 1912.	....	p. 331.
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Chronological Table.

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1 Year.	2 No.	3 Short title or subject.	4 How repealed or otherwise affected by legislation.	5 Where published.
1912	XIII	The Delhi Laws Act, 1912.	Supplemented and amended, Act 7 of 1915.	p. 332.
1913	I	The Indian Extradition (Amendment) Act, 1913.	....	p. 335.
	II	The Official Trustees Act, 1913.	Amended, Act 10 of 1914; Act 18 of 1919; Act 21 of 1922. Rep. in part, Act 5 of 1917; Act 12 of 1927.	p. 337.
	III	The Administrator General's Act, 1913.	Amended, Act 10 of 1914; Act 21 of 1922; Act 32 of 1926; Act 10 of 1927. Rep. in part, Act 5 of 1917; Act 12 of 1927.	p. 353.
	V	The White Phosphorus Matches Prohibition Act, 1913.	Declared in force— in British Baluchistan, Reg. 2 of 1913, s. 3. in the Arakan Hill District, Reg. 1 of 1916, s. 2.	p. 382.
	VI	The Mussalman Wakf Validating Act, 1913.	....	p. 383.
	VII	The Indian Companies Act, 1913.	Amended, Act 10 of 1914; Act 11 of 1914; Act 11 of 1915; Act 42 of 1920; Act 47 of 1920; Act 33 of 1926.	p. 385.
	VIII	The Indian Criminal Law Amendment Act, 1913.	....	p. 592.

THE

UNREPEALED GENERAL ACTS

OF THE

GOVERNOR GENERAL IN COUNCIL.

ACT No. III of 1910.[1]

[*18th February, 1910.*]

An Act further to amend the Indian Penal Code.

XLV of 1860.

WHEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Penal Code Amendment Act, 1910.

XLV of 1860.

Substitution of new section for section 75, Indian Penal Code.

2. For section 75 of the Indian Penal Code, the following shall be substituted, namely :—

" 75 Whoever, having been convicted,—

(*a*) by a Court in British India, of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

(*b*) by a Court or tribunal in the territories of any Native Prince or State in India acting under the general or special authority of the Governor General in Council or of any Local Government, of an offence which would, if committed in British India, have been punishable under those Chapters of this Code with like imprisonment for the like term,

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.".

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 1; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, pp. 13 and 91, dated 5th February, 1910, and 26th February, 1910, respectively.

ACT No. V of 1910.[1]

[*25th February, 1910.*]

An Act to provide for the prevention of the spread of Dourine.

WHEREAS it is expedient to provide for the prevention of the spread of dourine; It is hereby enacted as follows: —

Short title and extent.

1. (*1*) This Act may be called the Dourine Act, 1910.

(*2*) This section extends to the whole of British India: the rest of this Act extends only to such areas as the Local Government may, by notification[2] in the local official Gazette, direct.

Definitions.

2. (*1*) In this Act, the expressions "inspector" and "veterinary practitioner" mean, respectively, the officers appointed as such under this Act, acting within the local limits for which they are so appointed.

(*2*) The provisions of this Act in so far as they relate to entire horses shall, if the Local Government, by notification as aforesaid, so directs, apply also to entire asses used for mule-breeding purposes.

Registration of horses.

3. The Local Government may, by notification as aforesaid, make such orders as it thinks fit directing and regulating the registration of entire horses maintained for breeding purposes.

Appointment of inspectors and veterinary practitioners.

4. (*1*) The Local Government may, by notification as aforesaid, appoint any persons it thinks fit to be inspectors, and any qualified veterinary surgeons to be veterinary practitioners, under this Act, and to exercise and perform, within any area prescribed by the notification, the powers conferred and duties imposed by this Act upon such officers respectively.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. **XLV of 1860.**

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1909, Pt. V, p. 96; for Report of Select Committee, *see ibid*, 1910, Pt. V, p. 27; and for Proceedings in Council, *see ibid*, 1909, Pt. VI, p. 157, and *ibid*, 1910, Pt. VI, pp. 13, 90 and 121, dated 5th February, 1910, 26th February, 1910, and 12th March, 1910, respectively.

This Act has been declared in force in the Angul district by the Angul Laws Regulation, 1913 (III of 1913), sec. 3, B. & O. Code, Vol. I.

2 The Act has been extended to Coorg, *see* Coorg Gazette, 1919, Part I, p. 118, to Bombay, *see* Bombay Gazette, 1919, Part I, p. 3001, to Central Provinces, *see* C. P. Gazette, dated 11th Nov. 1922, Part I, p. 1151.

5. An inspector may, subject to such rules as the Local Government may make in this behalf,— Powers of inspector.

(a) enter and search any building, field or other place for the purpose of ascertaining whether there is therein any horse which is affected with dourine;[1]*

(b) prohibit, by order in writing, the owner or keeper of any horse, which in his opinion is affected with dourine, from using such horse for breeding purposes, pending examination by the veterinary practitioner;

[2][(c) direct, by order in writing, the owner or keeper of any horse which, in the opinion of the Inspectors, is affected with dourine to remove it or permit it to be removed for the purpose of segregation to a place specified in the order, and such direction shall be sufficient authority for the detention of the horse in that place for that purpose.]

6. An inspector issuing an order under section 5, [3]* * , shall forthwith forward a copy of such order to the veterinary practitioner. Duties of inspector.

7. A veterinary practitioner receiving a copy of an order forwarded under section 6 shall, as soon as possible after receipt of such copy, examine the horse mentioned therein, and may for such purpose enter any building, field or other place. Inspection of horses.

8. A veterinary practitioner may— Powers of veterinary practitioner.

(a) cancel any order issued under section 5, [4]* * ; or

(b) if on microscopical examination [or by other scientific test][5] he finds that any horse is affected with dourine,—

(i) in the case of an entire horse, cause it to be castrated,

[6][(ii) in the case of a mare, with the previous sanction of such authority as the Local Government may appoint in this behalf, or, if so empowered by the Local Government, without such sanction, cause it to be destroyed.]

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1 The word "and" was omitted by s. 2 of the Dourine (Amendment) Act, 1920 (8 of 1920).

2 This clause was added by *ibid.*

3 The word and letter "clause (b)" were omitted by *ibid*, s 3.

4 The word and letter "clause (b)" were omitted by *ibid*, s. 4.

5 These words were inserted by *ibid.*

6 This sub-clause was substituted by *ibid.*

Compensation for horse destroyed, etc.

9. When any horse is castrated or destroyed under section 8, the market-value of such horse immediately before it became affected with dourine shall be ascertained; and the Local Government shall pay as compensation to the owner thereof—

(*a*) in the case of a mare which has been destroyed, or of an entire horse which has died in consequence of castration, such market-value, and,

(*b*) in the case of an entire horse which survives castration, half the amount by which such value has been diminished owing to infection with dourine and castration.

Settlement of compensation.

10. (*1*) A veterinary practitioner may award, as compensation to be paid under section 9 in respect of each horse castrated or destroyed under section 8, a sum not exceeding two hundred and fifty rupees.

(*2*) If, in the opinion of the veterinary practitioner, the amount which should be paid as such compensation exceeds two hundred and fifty rupees, he shall report accordingly to the Collector, who shall decide the amount to be so paid.

Committees for hearing appeals.

11. (*1*) The Local Government shall, by rules published in the local official Gazette, make provision for the constitution of a committee or committees for the hearing of appeals from decisions under section 10.

(*2*) Such rules shall provide that not less than one member of any committee constituted thereunder shall be a person not in the employ of Government or of a local authority.

Appeals.

12. Any owner may, within two months from the date of a decision under section 10, appeal against such decision to the committee constituted in that behalf by rules made under section 11, and the decision of such committee shall be final.

Vexatious entries and searches.

13. (*1*) Whoever, being an inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Rules.

14. (*1*) The Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules as aforesaid may—

[1][(a) regulate the exercise of the powers conferred on Inspectors under section 5;]

(b) regulate the action to be taken by veterinary practitioners under section 8;[2]*

[3] * *

(3) All such rules shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted in this Act.

(4) In making any rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

15. Whoever uses or permits to be used for breeding purposes— Penalties.

(a) any horse which has not been registered in accordance with the requirements of a notification under section 3, or

[4][(b) any horse in respect of which an order under clause (b) or clause (c) of section 5 is in force,]

shall be punishable with fine which may amount, in the case of a first conviction, to fifty rupees, or, in the case of a second or subsequent conviction, to one hundred rupees.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act. Protection to persons acting under Act.

ACT No. VI OF 1910.[5]

[*4th March*, 1910.]

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, II of 1899. 1899; It is hereby enacted as follows:—

1. This Act may be called the Indian Stamp (Amendment) Act, 1910. Short title.

II of 1899. **2.** In section 8, sub-section (1), of the Indian Stamp Act, 1899 (hereinafter referred to as "the said Act"), for the words "eight annas per centum" the words "one per centum" shall be substituted. Amendment of Act II, 1899, section 8.

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[1] This clause was substituted by section 5 of the Dourine (Amendment) Act, 1920 (8 of 1920).

[2] The word "and" was omitted by *ibid.*

[3] Clause (c) was omitted by *ibid.*

[4] This clause was substituted for the original clauses (b) and (c) by s. 6 of *ibid.*

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 32; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, pp. 115 and 159, dated 12th March, 1910, and 19th March, 1910, respectively.

Amendment of Act II, 1899, Schedule I.

3. In Schedule I of the said Act the following amendments shall be made, namely :—

(i) For Article No. 5 the following shall be substituted, namely :—

"**5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—**	
(*a*) if relating to the sale of a bill of exchange	Two annas.
(*b*) if relating to the sale of a Government security or share in an incorporated company or other body corporate ;	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(*c*) if not otherwise provided for . . .	Eight annas.
Exemptions.	
Agreement or memorandum of agreement—	
(*a*) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No 43 ;	
(*b*) made in the form of tenders to the Government of India for or relating to any loan ;	
(*c*) made under the European Vagrancy Act, 1874, section 17."	

IX of 1874.

[1] * * * * *

(iii) For Article No. 27 the following shall be substituted, namely :—

"27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable—	
(*a*) by endorsement or by a separate instrument of transfer ;	The same duty as a Bond (No. 15) for the same amount.
(*b*) by delivery	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
Explanation.—The term 'Debenture' includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption.	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders : provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed.	
See also BOND (No. 15), and SECTIONS 8 and 55."	

[1] Section 3 (ii) was virtually repealed by sec. 2 of the Indian Stamp (Amendment) Act, 1912 (1 of 1912). It has since been repealed by the Repealing and Amending Act, 1914 (10 of 1914), Sch. II.

(iv) For Article No. 43 the following shall be substituted, namely :—

"43. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees ;	Two annas.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security."

(v) In Article No. 59, in the second column, for the words "Three-quarters of" the words "One-and-a-half times" and in the *Exemption*, for the word "three-quarters" each time it occurs the words "one-and-a-half" shall be substituted.

(vi) In Article No. 62, in the second column, for the word "One-quarter," where it occurs opposite clauses (a) and (b), the word "One-half" shall be substituted.

ACT No. VII of 1910.[1]

[*4th March, 1910.*]

An Act further to amend the Court-fees Act, 1870.

VII of 1870. WHEREAS it is expedient further to amend the Court-fees Act, 1870; It is hereby enacted as follows :—

1. This Act may be called the Court-fees (Amendment) Act, 1910. **Short title.**

VII of 1870. VII of 1889. 2. In Schedule I to the Court-fees Act, 1870, as amended by the Succession Certificate Act, 1889, the following amendments shall be made, namely :— **Amendment of Act VII, 1870, Schedule I.**

(i) in Article 11, for the entries in the second and third columns, the following shall be substituted, namely :—

When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, but does not exceed ten thousand rupees.	Two per centum on such amount or value.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 34; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, pp. 117 and 163, dated 12th March, 1910 and 9th March, 1910, respectively.

When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.	Two and one-half per centum on such amount or value.
When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.
Provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or under the Regulation of the Bombay Code [1] No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.	

VII of 1889.

(ii) in Article 12A, for the entries in the second and third columns, the following shall be substituted, namely:—

(1) As regards debts and securities. . .	The same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be.
(2) As regards other property in respect of which the certificate is granted—	
When the amount or value of such property exceeds one thousand rupees, but does not exceed ten thousand rupees.	Two per centum on such amount or value.
When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.	Two and one-half per centum on such amount or value.
When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.

VII of 1889.

Exemption of certain probates, letters of administration and certificates.

3. Nothing in this Act shall apply to any probate, letters of administration or certificate in respect of which the fee payable under the law for the time being in force has been paid prior to the commencement of this Act, but which have not been issued.

1 Bombay Code, Vol. I.

THE INDIAN ELECTRICITY ACT, 1910.

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ACT No. IX of 1910.[1]

[*18th March, 1910.*]

An Act to amend the law relating to the supply and use of electrical energy.

Whereas it is expedient to amend the law relating to the supply and use of electrical energy; It is hereby enacted as follows:—

PART I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Electricity Act, 1910.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas; and

(*3*) It shall come into force on such [2]date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

Definitions.

XIII of 1885. **2.** In this Act, expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,—

(*a*) "aërial line" means any electric supply line which is placed above ground and in the open air:

(*b*) "area of supply" means the area within which alone a licensee is for the time being authorised by his license to supply energy:

(*c*) "consumer" means any person who is supplied with energy by a licensee, or whose premises are for the time being connected for the purposes of a supply of energy with the works of a licensee:

(*d*) "daily fine" means a fine for each day on which an offence is continued after conviction therefor:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1909, Pt. V, p. 87; for Report of Select Committee, *see ibid*, 1910, Pt. V, p. 39; and for Proceedings in Council, *see ibid*, 1909, Pt. VI, p. 152, and *ibid*, 1910, Pt. VI, pp. 12, 157 and 275, dated 5th February, 1910, 19th March, 1910, and 9th April, 1910, respectively.

[2] The Act was brought into force on the 1st January, 1911, *see* Genl. R. & O., Vol. IV, p. 1.

(*Part I.—Preliminary.*)

(*e*) "distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected:

(*f*) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy:

(*g*) "energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message:

(*h*) "licensee" means any person licensed under Part II to supply energy:

(*i*) "main" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee to the public:

(*j*) "prescribed" means prescribed by rules made under this Act:

(*k*) "public lamp" means an electric-lamp used for the lighting of any street:

[1][(*l*) "service line" means any electric supply line through which energy is, or is intended to be, supplied by a licensee—

(i) to a single consumer either from a distributing main or immediately from the licensee's premises, or

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main.]

(*m*) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway: and

(*n*) "works" includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a license granted under Part II.

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1 This clause was substituted by s. 2 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

PART II.

SUPPLY OF ENERGY.

Licenses.

3. (*1*) The Local Government may, on application made in the prescribed form and on payment of the prescribed fee (if any), grant to any person a license to supply energy in any specified area, and also to lay down or place electric supply-lines for the conveyance and transmission of energy,— **Grant of licenses.**

(*a*) where the energy to be supplied is to be generated outside such area, from a generating station situated outside such area to the boundary of such area, or

(*b*) where energy is to be conveyed or transmitted from any place in such area to any other place therein, across an intervening area not included therein, across such area.

(*2*) In respect of every such license and the grant thereof the following provisions shall have effect, namely:—

(*a*) any person applying for a license under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars, and the license shall not be granted—

(i) until all objections received by the Local Government with reference thereto have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid; and

(ii) until, in the case of an application for a license for an area including the whole or any part of any cantonment, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for naval or military purposes, the Local Government has ascertained that there is no objection to the grant of the license on the part of the [1][Engineer-in-Chief, Army Head Quarters, India];

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[1] These words were substituted for the words "General Officer Commanding the Division", by s. 2 and Sch. I of the Repealing and Amending Act, 1925 (37 of 1925).

(*Part II.—Supply of Energy.*)

(*b*) where an objection is received from any local authority concerned, the Local Government shall, if in its opinion the objection is insufficient, record in writing, and communicate to such local authority its reasons for such opinion;

(*c*) no application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given;

(*d*) a license under this Part—

(i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such matters as the Local Government may think fit; and

(ii) save in cases in which under section 10, clause (*b*), the provisions of sections 5 and 7, or either of them, have been declared not to apply, every such license shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under section 5 or section 7;

(*e*) the grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of a license to another person within the same area of supply for a like purpose;

(*f*) the provisions contained in the Schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to any such additions, variations or exceptions which the Local Government is hereby empowered to make, apply to the undertaking authorised by the license:

Provided that, where a license is granted in accordance with the provisions of clause IX of the Schedule for the supply of

energy to other licensees for distribution by them, then, in so far as such license relates to such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the Schedule shall not be deemed to be incorporated with the license.

1[* * * * *]

4. (1) The Local Government may, if in its opinion the public interest so requires, revoke a license in any of the following cases, namely :— Revocation or amendment of licenses.

(a) where the licensee, in the opinion of the Local Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act;

(b) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his license or any longer period which the Local Government may substitute therefor by order under sub-section (3), clause (b), and before exercising any of the powers conferred on him thereby in relation to the execution of works,—

(i) to show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or

(ii) to make the deposit or furnish the security required by his license;

(d) where the licensee is, in the opinion of the Local Government, unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license.

(2) Where the Local Government might, under sub-section (1), revoke a license, it may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

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1 Sub-section (3) was omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(3) Where in its opinion the public interest so permits, the Local Government may, on the application or with the consent of the licensee, and, if the licensee is not a local authority, after consulting the local authority (if any) concerned,—

(a) revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit, or

(b) make such alterations or amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (f), as it thinks fit.

Provisions where license of licensee, not being a local authority, is revoked.

5. Where the Local Government revokes, under section 4, sub-section (1), the license of a licensee, not being a local authority, the following provisions shall have effect, namely.—

(a) the Local Government shall serve a notice of the revocation upon the licensee, and, where the whole of the area of supply is included in the area for which a single local authority is constituted, upon that local authority also, and shall in the notice fix a date on which the revocation shall take effect; and on and with effect from that date, all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;

(b) where a notice has been served on a local authority under clause (a), the local authority may, within three months after the service of the notice, and with the written consent of the Local Government, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the

nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations;

(*c*) where no purchase has been effected by the local authority under clause (*b*), and any other person is willing to purchase the undertaking, the Local Government may, if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to such other person;

(*d*) where no purchase has been effected under clause (*b*) or clause (*c*) within such time as the Local Government may consider reasonable, or where the whole of the area of supply is not included in the area for which a single local authority is constituted, the Local Government shall have the option of purchasing the undertaking and, if the Local Government elects to purchase, the licensee shall sell the undertaking to the Local Government upon terms and conditions similar to those set forth in clause (*b*);

(*e*) where a purchase has been effected under any of the preceding clauses,—

(i) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking:

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

(ii) the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking is purchased, and, save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee:

Provided that where the Local Government elects to purchase under clause (*d*), the license shall, after purchase, in so far as the Local Government is concerned, cease to have any further operation;

(*f*) where no purchase has been effected under any of the foregoing clauses, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exerciseable, the Local Government may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee;

(*g*) if the licensee has been required to sell the undertaking, and if the sale has not been completed by the date fixed in the notice issued under clause (*a*), the purchaser may, with the previous sanction of the Local Government, work the undertaking pending the completion of the sale.

Provisions where license of local authority is revoked.

6. (*1*) Where the Local Government revokes the license of a local authority under section 4, sub-section (*1*), and any person is willing to purchase the undertaking, the Local Government may, if it thinks fit, require the local authority to sell, and thereupon the local authority shall sell, the undertaking to such person on such terms as the Local Government thinks just.

(*2*) Where no purchase has been effected under sub-section (*1*), the licensee shall have the option of disposing of all lands, buildings, works,

materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exerciseable, the Local Government may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of undertaking.

7. *(1)* Where a license has been granted to any person not being a local authority, and the whole of the area of supply is included in the area for which a single local authority is constituted, the local authority shall, on the expiration of such period, not exceeding fifty years, and of every such subsequent period, not exceeding twenty years, as shall be specified in this behalf in the license, have the option of purchasing the undertaking, and, if the local authority, with the previous sanction of the Local Government, elects to purchase, the licensee shall sell the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking:

Provided also that there shall be added to such value as aforesaid such percentage, if any, not exceeding twenty per centum on that value as may be specified in the license, on account of compulsory purchase.

(2) Where—

(*a*) the local authority does not elect to purchase under sub-section (*1*), or

(*b*) the whole of the area of supply is not included in the area for which a single local authority is constituted, or

(*c*) a licensee supplies energy from the same generating station to two or more areas of supply, each controlled by its own local authority, and has been granted a license in respect of each area of supply,

the Local Government shall have the like option upon the like terms and conditions.

(*3*) Where a purchase has been effected under sub-section (*1*) or sub-section (*2*),—

(*a*) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking:

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

(*b*) save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee:

Provided that where the Local Government elects to purchase under sub-section (*2*), the license shall, after purchase, in so far as the Local Government is concerned, cease to have any further operation.

(*4*) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the licensee by the local authority or the Local Government, as the case may be.

(*5*) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the Local Government, waive its option to purchase and enter into an agreement with the licensee for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (*1*), upon such terms and conditions as may be stated in such agreement.

Provisions where no purchase and license revoked with consent of licensee.

8. Where, on the expiration of any of the periods referred to in section 7, sub-section (*1*), neither a local authority nor the Local Government purchases the undertaking, and the license is, on the application or with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the Local Government may proceed to take action as provided in section 5, clause (*f*), proviso.

Licensee not to purchase, or associate himself with other licensed undertakings or transfer his undertakings.

9. (*1*) The licensee shall not, at any time without the previous consent in writing of the Local Government, acquire, by purchase or otherwise, the license or the undertaking of, or associate himself so far as the business of supplying energy is concerned with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply, and also in the area or district in which such other person supplies, or intends to supply, energy:

Provided that nothing in this sub-section shall be construed to require the consent of the Local Government for the supply of energy by one licensee to another in accordance with the provisions of clause IX of the Schedule.

(*2*) The licensee shall not at any time assign his license or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Local Government.

(*3*) Any agreement relating to any transaction of the nature described in sub-section (*1*) or sub-section (*2*), unless made with, or subject to, such consent as aforesaid, shall be void.

General power for Government to vary terms of purchase.

10. Notwithstanding anything in sections 5, 7 and 8, the Local Government may, [1]* * *, in any license to be granted under this Act,—

(*a*) vary the terms and conditions upon which, and the periods on the expiration of which, the licensee shall be bound to sell his undertaking, or

(*b*) direct that, subject to such conditions and restrictions (if any) as it may think fit to impose, the provisions of the said sections or any of them shall not apply.

Annual accounts of licensee.

11. (*1*) Every licensee shall, unless expressly exempted from the liability by his license, or by order in writing of the Local Government,

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[1] The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

prepare and render to the Local Government or to such authority as the Local Government may appoint in this behalf, on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office, and sell the same to any applicant at a price not exceeding five rupees per copy.

Works.

Provisions as to the opening and breaking up of streets, railways and tramways.

12. (*1*) Any licensee may, from time to time but subject always to the terms and conditions of his license, within the area of supply, or when permitted by the terms of his license to lay down or place electric supply-lines without the area of supply, without that area—

(*a*) open and break up the soil and pavement of any street, railway or tramway;

(*b*) open and break up any sewer, drain or tunnel in or under any street, railway or tramway;

(*c*) lay down and place electric supply-lines and other works;

(*d*) repair, alter or remove the same; and

(*e*) do all other acts necessary for the due supply of energy.

(*2*) Nothing contained in sub-section (*1*) shall be deemed to authorise or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, whereover or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

Provided that any support of an aërial line or any stay or strut required for the sole purpose of securing in position any support of an aërial line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate or, in a Presidency-town or Rangoon, the Commissioner of Police by order in writing so directs:

(Part II.—Supply of Energy.)

Provided, also, that, if at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town or Rangoon, the Commissioner of Police may by order in writing direct any such support, stay or strut to be removed or altered.

(*3*) When making an order under sub-section (*2*), the District Magistrate or the Commissioner of Police, as the case may be, shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(*4*) Every order made by a District Magistrate or a Commissioner of Police under sub-section (*2*) shall be subject to revision by the Local Government.

(*5*) Nothing contained in sub-section (*1*) shall be deemed to authorise or empower any licensee to open or break up any street not repairable by the Government or a local authority, or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorised to break up by his license, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway, unless with the written consent of the Local Government:

Provided that the Local Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the Local Government may direct, and within such period as the Local Government may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the Local Government.

13. (*1*) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely :— **Notice of new works.**

(*a*) not less than one month before commencing the execution of the works (not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of

which the character or position is not to be altered), the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be, a notice in writing describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

(*b*) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the Local Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final;

(*c*) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section and plan served under clause (*a*);

(*d*) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under clause (*a*), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall

be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(e) where no requisition has been served by the owner upon the licensee under clause (*d*), within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(f) where the works to be executed consist of the laying of any underground service line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

(g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch, and, if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or

the owner, as the case may be, of his intention to do so, place an aërial line without complying with the provisions of sub-section (*1*):

Provided that such aërial line shall be used only until the defect in the underground electric supply-line can be made good, and in no case (unless with the written consent of the Local Government) for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

Alteration of pipes or wires.

14. (*1*) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorised to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(*2*) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:—

(*a*) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(*b*) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the

notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration ;

(*c*) every arbitrator to whom a reference is made under clause (*b*) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid, as far as possible, interference therewith ;

(*d*) where no requisition is served upon the operator under clause (*b*) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties ;

(*e*) the owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration ;

(*f*) where a statement is served upon the operator under clause (*e*), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made ; and thereupon the owner may proceed to execute the alteration as required by the operator ;

(*g*) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under clause (*f*), comply with the notice, the operator may himself execute the alteration ;

(*Part II.—Supply of Energy.*)

(*h*) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (*f*) may be recovered by him from the operator.

(*3*) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration

Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works.

15. (*1*) Where—

(*a*) the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water-course or work under the control of the Local Government or of any local authority, or any pipe, syphon, electric supply-line or other work belonging to any duly authorised person, has been lawfully placed, or

(*b*) any duly authorised person requires to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed,

the licensee or such duly authorised person, as the case may be (hereinafter in this section referred to as "the operator"), shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency give to the Local Government or local authority, or to such duly authorised person or to the licensee, as the case may be (hereinafter in this section referred to as "the owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(*2*) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(Part II—Supply of Energy.)

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorised person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with section 34, sub-section (1), lay his electric supply-lines so as to come into contact with any such pipes, lines or service-pipes or service lines.

(4) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.

16. (1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall—

(a) immediately cause the part opened or broken up to be fenced and guarded;

(b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and

(d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the

default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined by arbitration

Notice to telegraph-authority.

17. (1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph-line, any electric supply-line or other works [1]([not being either service lines] or electric supply-lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days' notice in writing to the telegraph-authority, specifying—

(a) the course of the works or alteration proposed,

(b) the manner in which the works are to be utilised,

(c) the amount and nature of the energy to be transmitted, and

(d) the extent to, and manner in, which (if at all) earth returns are to be used;

and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority within that period for preventing any telegraph-line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying [2][or placing] of any [3]* service line [4]* * * , the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph-authority a notice in writing of his intention to execute such works.

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1 These words were substituted for the words "not being service lines immediately attached or intended to be immediately attached to a distributing main" by s. 4 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 These words were inserted by s. 4 of *ibid.*

3 The word "underground" was omitted by *ibid.*

4 The words "immediately attached, or intended to be immediately attached, to a distributing main" were omitted by *ibid.*

18. *(1)* Save as provided in section 13, sub-section *(3)*, nothing in this Part shall be deemed to authorise or empower a licensee to place any aërial line along or across any street, railway, tramway, canal or waterway unless and until the Local Government has communicated to him a general approval in writing of the methods of construction which he proposes to adopt: **Aerial lines.**

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act

(2) Where any aërial line has been placed or maintained by a licensee in breach of the provisions of sub-section *(1)*, the Local Government may require the licensee forthwith to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

[1][*(3)* Where any tree standing or lying near an aërial line, or where any structure or other object which has been placed or has fallen near an aërial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the first class or, in a Presidency-town or Rangoon, the Commissioner of Police, may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.]

(4) When disposing of an application under sub-section *(3)*, the Magistrate or Commissioner of Police, as the case may be, shall, in the case of any tree in existence before the placing of the aërial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

[2][*Explanation.*—For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle-growth or other plant.]

19. *(1)* A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, **Compensation for damage.**

[1] This sub-section was substituted by s. 5 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] This Explanation was added by *ibid.*

detriment or inconvenience caused by him or by any one employed by him.

(*2*) Save in the case provided for in section 12, sub-section (*3*), where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Supply.

Point where supply is delivered.

[1][**19A.** For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.]

Power for licensee to enter premises and to remove fittings or other apparatus of licensee.

20. (*1*) A licensee or any person duly authorised by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of—

(*a*) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee; or

(*b*) ascertaining the amount of energy supplied or the electrical quantity contained in the supply; or

(*c*) removing, where a supply of energy is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, [2][meters], fittings, works or apparatus belonging to the licensee.

(*2*) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate or, in a Presidency-town or Rangoon, by the Commissioner of Police, and after giving not less than twenty-four hours' notice in writing to the occupier, enter any premises to which energy is or has been supplied, or is to be supplied, by him for the purpose of examining and testing the electric-wires, fittings, works and apparatus for the use of energy belonging to the consumer.

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1 This section was inserted by s. 6 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 This word was inserted by s. 7 of *ibid.*

(*Part II.—Supply of Energy*)

[1][(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (*1*) or sub-section (*2*), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.]

Restrictions on licensee's controlling or interfering with use of energy.

21. (*1*) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or, save as provided by section 23, sub-section (*2*), or by section 26, sub-section (*7*), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

[2][(*2*) Subject to the provisions of sub-section (*1*), a licensee may, with the previous sanction of the Local Government, given after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his license or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction given after the like consultation add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January 1922 shall, if sanctioned by the Local Government on application made by the licensee before such date as the Local Government may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(*3*) The Local Government may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (*2*) after giving to the licensee not less than one month's notice in writing of its intention so to do.]

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[1] This sub-section was added by s. 7 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] These sub-sections were inserted by s. 8 of *ibid*.

(Part II —Supply of Energy.)

[1][(4)] Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1), the matter shall be either referred to an Electric Inspector and decided by him or, if the licensee or consumer so desires, determined by arbitration.

Obligation on licensee to supply energy.

22. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

Charges for energy to be made without undue preference.

23. (1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

[2][(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer—

(a) by the actual amount of energy so supplied, or

(b) by the electrical quantity contained in the supply, or

(c) by such other method as may be approved by the Local Government.]

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[1] This sub-section was re-numbered by s. 8 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] This sub-section was added by s. 9 of *ibid.*

[1][(*4*) Any charges made by a licensee under clause (*c*) of sub-section (*3*) may be based upon, and vary in accordance with, any one or more of the following considerations, namely :—

(*a*) the consumer's load factor, or

(*b*) the power factor of his load, or

(*c*) his total consumption of energy during any stated period, or

(*d*) the hours at which the supply of energy is required.]

24. [2](*1*) Where any person neglects to pay any charge for energy or any [3][sum, other than a charge for energy] due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and re-connecting the supply, are paid, but no longer.

Discontinuance of supply to consumer neglecting to pay charge.

[4](*2*) [5]* * Where any difference or dispute has been referred under this Act to an Electric Inspector before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision :

[6][Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request.]

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

Exemption of electric supply-lines or other apparatus from attachment in certain cases.

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1 This sub-section was added by s. 9 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 This paragraph of section 24 was re-numbered as 24 (*1*) by s. 10 of *ibid.*

3 These words were substituted for the words "other sum" by *ibid.*

4 The proviso was re-numbered as sub-section (*2*) by *ibid.*

5 The words "Provided that" were omitted by *ibid.*

6 This proviso was added by *ibid.*

(Part II.—Supply of Energy.)

Meters.

26. *(1)* In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.

(2) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter correct, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(3) Where the meter is the property of the consumer, he shall keep the meter correct, and, in default of his doing so, the licensee may, after giving him seven days' notice, for so long as the default continues, cease to supply energy through the meter.

(4) The licensee or any person duly authorised by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in sub-section *(1)*; and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if the meter is found to be otherwise than correct, be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be referred to an Electric Inspector, and the decision of such Inspector shall be final:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section *(6)* has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter referred to in sub-section *(1)* with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(Part II.—Supply of Energy.)

(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electric Inspector, or by a competent person specially appointed by the Local Government in this behalf; and, where the meter has, in the opinion of such Inspector or person, ceased to be correct, such Inspector or person shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter shall not, in the opinion of such Inspector or person, have been correct [1]* * * ; and where the matter has been decided by any person other than the Electric Inspector, an appeal shall lie to the Inspector, whose decision shall in every case be final: but, save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

[2][Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.]

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided, also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or

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1 The words "on the basis of the previous supply" were omitted by s. 11 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 This proviso was added by *ibid.*

apparatus correct; and the provisions of sub-sections (*4*), (*5*) and (*6*) shall in that case apply as though the meter, indicator or apparatus were a meter referred to in sub-section (*1*).

Explanation.—A meter shall be deemed to be "correct" if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus referred to in sub-section (*7*) shall be deemed to be "correct" if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

Supply of energy outside area of supply.

27. Notwithstanding anything in this Act, the Local Government may, by order in writing, and subject to such conditions and restrictions, if any, as it thinks fit to impose, authorise any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee's consent, unless the Local Government considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel in or under any street, railway or tramway, or to interfere with any telegraph-line, without the written consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph-authority, as the case may be, [1][unless the Local Government, after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld:]

Provided, fourthly, that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorised under this section as if the said supply were made within the area of supply.

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1 These words were added by s. 12 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

PART III.

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES.

Sanction required by non-licensees in certain cases.

28. (*1*) No person, other than a licensee, shall engage in the business of supplying energy except with the previous sanction of the Local Government and in accordance with such conditions as the Local Government may fix in this behalf, and any agreement to the contrary shall be void:

* * *

Provided [2]* that such sanction shall not be given within the area for which a local authority is constituted, without that local authority's consent, or within the area of supply of any licensee, without that licensee's consent, unless the Local Government considers that consent has been unreasonably withheld.

(*2*) Where any difference or dispute arises as to whether any person is or is not engaging, or about to engage, in the business of supplying energy within the meaning of sub-section (*1*), the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Power for non-licensees to break up streets.

29. (*1*) The local authority may, by order in writing, confer and impose upon any person, who has obtained the sanction of the Local Government under section 28 to engage in the business of supplying energy, all or any of the powers and liabilities of a licensee under sections 12 to 19, both inclusive, and the provisions of the said sections shall thereupon apply as if such person were a licensee under Part II.

(*2*) A local authority, not being a licensee, shall, for the purpose of lighting any street, have the powers and be subject to the liabilities respectively conferred and imposed by sections 12 to 19, both inclusive, so far as applicable, as if it were a licensee under Part II.

(*3*) In cases other than those for which provision is made by sub-section (*1*), the person responsible for the repair of any street may, by order in writing, confer and impose upon any person who proposes to transmit energy in such street all or any of the powers and liabilities

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[1] The first proviso was omitted by s. 13 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] The word "also" was omitted by *ibid*.

(*Part III.—Supply, Transmission and Use of Energy by Non-licensees.*)

of a licensee under sections 12 to 19 (both inclusive), in so far as the same relate to—

(*a*) opening or breaking up of the soil or pavement of such street, or

(*b*) laying down or placing electric supply-lines in, under, along or across such street, or

(*c*) repairing, altering or removing such electric supply-lines,

and thereupon the provisions of the said sections shall, so far as aforesaid, apply to such person as if he were a licensee under Part II.

(*4*) If no order is made within fourteen days after the receipt of an application for the same under sub-section (*1*) or sub-section (*3*), the order so applied for shall be deemed to have been refused, and every order, and every refusal to make an order, under sub-section (*1*) or sub-section (*3*), shall be subject to revision by the Local Government.

Application of section 18 to aërial lines maintained by railways.

[1][**29A.** The provisions of sub-sections (*3*) and (*4*) of section 18 and of the *Explanation* thereto shall apply in the case of any aërial line placed by any railway administration as defined in section 3 of the Indian Railways Act, 1890, as if references therein to the licensee were references to the railway administration.] **IX of 1890.**

Control of transmission and use of energy.

30. (*1*) No person, other than a licensee duly authorised under the terms of his license, shall transmit or use energy at a rate exceeding two hundred and fifty watts,—

(*a*) in any street, or

(*b*) in any place,

(i) in which one hundred or more persons are likely ordinarily to be assembled, or

(ii) which is a factory within the meaning of the Indian Factories Act, [2][1911], or **XII of 1911.**

(iii) which is a mine within the meaning of the [3]Indian Mines Act, 1901, [or **VIII of 1901.**

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[1] This section was inserted by s. 2 of the Indian Electricity (Amendment) Act, 1923 (40 of 1923).

[2] These figures were substituted for the figures "1881" by s. 14 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[3] *See* now the Indian Mines Act, 1923 (4 of 1923).

(iv) to which the Local Government, by general or special order, declares the provisions of this sub-section to apply,][1]

without giving not less than seven clear days' notice in writing of his intention to the District Magistrate, or, in a Presidency-town or Rangoon, to the Commissioner of Police, and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable :

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods on, or for the lighting or ventilation of the rolling-stock of, any railway or tramway
IX of 1890. subject to the provisions of the Indian Railways Act, 1890 :

Provided, also, that the Local Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provision or rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (*b*).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

(3) The provisions of this section shall be binding on the Crown.

PART IV.

GENERAL.

Protective Clauses.

Protection of railways and canals, docks, wharves and piers.

31. No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, tramway, canal or waterway or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or water-way.

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[1] This clause was inserted by s. 14 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

(*Part IV.—General.*)

Protection of telegraphic, telephonic and electric signalling lines.

32. (*1*) Every person generating, transmitting, supplying or using energy (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication, or the currents in such wire or line.

(*2*) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (*1*), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the [1][Local Government]; and the [1][Local Government], unless [2][it] is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(*3*) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use made thereof.

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[1] These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] This word was substituted for the word "he" by *ibid.*

(*Part IV.—General.*)

Notice of accidents and inquiries.

33. [1][(*1*) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Local Government may, by general or special order, direct.]

(*2*) The Local Government may, if it thinks fit, require any Electric Inspector, or any other competent person appointed by it in this behalf, to inquire and report—

(*a*) as to the cause of any accident affecting the safety of the public, which may have been occasioned by, or in connection with, the generation, transmission, supply or use of energy, or

(*b*) as to the manner in, and extent to, which the provisions of this Act or of any license or rules thereunder, so far as those provisions affect the safety of any person, have been complied with.

Prohibition of connection with earth, and power for Government to interfere in certain cases of default.

34. (*1*) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the [2][Local Government].

(*2*) If at any time it is established to the satisfaction of the Local Government—

(*a*) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (*1*), or

(*b*) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph-line, or

(*c*) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

[1] This sub-section was substituted by s. 15 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

the Local Government may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

Administration and Rules.

Advisory Boards.

35. *(1)* The Governor General in Council may, for the whole or any part of British India, and each Local Government may, for the whole or any part of the province, by notification in the Gazette of India or the local official Gazette, as the case may be, constitute an Advisory Board.

(2) Every such Board shall consist of a chairman and not less than two other members.

[1]* * * * *

[2]*(3)* The Governor General in Council or the Local Government, as the case may be, may, by general or special order,—

[3][*(a)* determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed,]

[4]*(b)* define the duties and regulate the procedure of any such Board,

[4]*(c)* determine the tenure of office of the members of any such Board, and

[4]*(d)* give directions as to the payment of fees to, and the travelling expenses incurred by, any member of any such Board in the performance of his duty.

Appointment of Electric Inspectors.

36. *(1)* The Governor General in Council may, by notification in the Gazette of India, appoint duly qualified persons to be Electric Inspectors, and every Electric Inspector so appointed shall exercise the powers and perform the functions of an Electric Inspector under this Act within such areas and subject to such restrictions as the Governor General in Council may direct.

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1 Original sub-section *(3)* was omitted by s. 16 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 Sub-section *(4)* was re-numbered *(3)* by *ibid.*

3 This clause was inserted by *ibid.*

4 These clauses were re-lettered by *ibid*

(*2*) The Local Government may, by notification in the local official Gazette, appoint duly qualified persons to be Electric Inspectors within such areas as may be assigned to them respectively; and every Inspector so appointed shall exercise the powers and perform the functions of an Electric Inspector under this Act subject to such restrictions as the Local Government may direct.

(*3*) In the absence of express provision to the contrary in this Act or any rule thereunder, an appeal shall lie from the decision of an Electric Inspector to the Governor General in Council or the Local Government, as the case may be, [1][or, if the Governor General in Council or the Local Government, as the case may be, by general or special order, so directs, to an Advisory Board].

Power for Government to make rules.

37. (*1*) The Governor General in Council may make rules[2] for the whole or any part of British India, to regulate the generation, transmission, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of applications for licenses and the payments to be made in respect thereof;

(*b*) regulate the publication of notices;

(*c*) prescribe the manner in which objections with reference to any application under Part II are to be made;

(*d*) provide for the preparation and submission of accounts by licensees in a specified form;

(*e*) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply and for the examination of the records of such tests by consumers;

(*f*) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason

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[1] These words were added by s. 17 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] For rules *see* General Statutory Rules and Orders, Vol. IV, p. 1.

(*Part IV.—General.*)

of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy;

(*g*) for the purposes of electric traction regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not;

(*h*) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy;

(*i*) prescribe the qualifications to be required of Electric Inspectors;

(*j*) authorise any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests;[1]*

(*k*) authorise and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act; [2][and

(*l*) provide for any matter which is to be or may be prescribed].

[3][(*3*) Any rules made in pursuance of clause (*f*) or clause (*h*) of sub-section (*2*) shall be binding on the Crown.]

[4](*4*) In making any rule under this Act, the Governor General in Council may direct that every breach thereof shall be punishable with fine which may extend to three hundred rupees, and, in the case of a

1 The word "and" was omitted by s. 18 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922.)
2 These words were inserted by *ibid.*
3 This sub-section was inserted by *ibid.*
4 This sub-section was re-numbered by *ibid.*

continuing breach, with a further daily fine which may extend to fifty rupees.

38. (*1*) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication. **Further provisions respecting rules.**

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 37 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information. **X of 1897.**

(*3*) Any rule to be made under this Act shall, before it is published for criticism under sub-section (*2*), be referred to the Advisory Board (if any) constituted for the whole of British India, or, if no such Board has been constituted, then to such Board or Boards (if any) as the Governor General in Council may direct; and the rule shall not be so published until such Board or Boards (if any) has or have reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*4*) All rules made under section 37 shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Criminal Offences and Procedure.

39. Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Indian Penal Code; and the existence of artificial means for such abstraction shall be *prima facie* evidence of such dishonest abstraction. **Theft of energy.** **XLV of 1860.**

40. Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both. **Penalty for maliciously wasting energy or injuring works.**

41. Whoever, in contravention of the provisions of section 28, engages in the business of supplying energy shall be punishable with fine which may extend to three thousand rupees, and, in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees. **Penalty for unauthorised supply of energy by non-licensees.**

(*Part IV.—General.*)

Penalty for illegal or defective supply or for non-compliance with order.

42. Whoever—

(*a*) being a licensee, save as permitted under section 27 or section 51 or by his license, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(*b*) being a licensee, in contravention of the provisions of this Act or of the rules thereunder or in breach of the conditions of his license and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

(*c*) makes default in complying with any order issued to him under section 34, sub-section (*2*);

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

Penalty for illegal transmission or use of energy.

43. Whoever, in contravention of the provisions of section 30, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

Penalty for interference with meters or licensee's works and for improper use of energy.

44. Whoever—

(*a*) connects any meter referred to in section 26, sub-section (*1*), or any meter, indicator or apparatus referred to in section 26, sub-section (*7*), with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or

(*b*) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or

(*c*) maliciously injures any meter referred to in section 26, sub-section (*1*), or any meter, indicator or apparatus referred to in section 26, sub-section (*7*), or wilfully or fraudulently alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or

(*d*) improperly uses the energy of a licensee;

(*Part IV—General.*)

shall be punishable with fine which may extend to [1][five hundred] rupees, and, in the case of a continuing offence, with a daily fine which may extend to [2][fifty] rupees; and [3][if it is proved that any artificial means exists] for making such connection as is referred to in clause (*a*), or such communication as is referred to in clause (*b*), or for causing such alteration or prevention as is referred to in clause (*c*), or for facilitating such improper use as is referred to in clause (*d*), [4][and that] the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not, [5][it shall be presumed, until the contrary is proved,] that such connection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

Penalty for extinguishing public lamps.

45. Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

Penalty for negligently wasting energy or injuring works.

46. Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

Penalty for offences not otherwise provided for.

47. Whoever, in any case not already provided for by sections 39 to 46 (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 15, 17 and 32, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency, and that the offender complied with the said provisions as far as was reasonable in the circumstances.

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1 These words were substituted for the words "three hundred" by s. 19 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 This word was substituted for the word "thirty" by *ibid.*

3 These words were substituted for the words "the existence of artificial means" by *ibid.*

4 These words were substituted for the words "shall, where" by *ibid.*

5 These words were substituted for the words "be *prima facie* evidence" by *ibid.*

(Part IV.—General.)

Penalties not to affect other liabilities. **48.** The penalties imposed by sections 39 to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or in the case of a licensee, the revocation of his license, which the offender may have incurred.

Penalties where works belong to Government. **49.** The provisions of sections 39, 40, 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by, or of works belonging to, the Government.

Institution of prosecutions. **50.** No prosecution shall be instituted against any person for any offence against this Act or any rule, license or order thereunder, except at the instance of the Government or an Electric Inspector, or of a person aggrieved by the same.

Supplementary.

Exercise in certain cases of powers of telegraph-authority. **51.** Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the [1][Local Government] may, by order in writing, for the placing of appliances and apparatus for the transmission of energy, confer upon any public officer[2] or licensee, subject to such conditions and restrictions (if any) as the [1][Local Government] may think fit to impose, and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph-authority possesses under that Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained. **XIII of 1885.**

Arbitration. **52.** Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the Local Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Indian Arbitration Act, 1899. **IX of 1899.**

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[1] These words were substituted for the words "Governor General in Council" by s. 20 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] For the conferment of powers under this section on the Chief Commissioner of Delhi in connection with the construction of New Delhi, *see* General Statutory Rules and Orders, Vol. IV, p. 66.

(*Part IV.—General.*)

53. (*1*) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,— **Service of notices, orders or documents.**

(*a*) where the Government is the addressee, at the office of [1][such officer as the Governor General in Council or the Local Government as the case may be, may designate in this behalf];

(*b*) where a local authority is the addressee, at the office of the local authority;

(*c*) where a company is the addressee, at the registered office of the Company or, in the event of the registered office of the Company not being in India, at the head office of the Company in India;

(*d*) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(*2*) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

54. Every sum declared to be recoverable by section 5, clause (*f*), section 6, sub-section (*2*), section 14, sub-section (*2*), clause (*h*), section 16, sub-section (*2*), section 18, sub-section (*2*) or sub-section (*4*), or section 26, sub-section (*4*), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person. **Recovery of sums recoverable under certain provisions of Act.**

55. The Local Government may, by general or special order, authorise the discharge of any of its functions under section 13 or section 18 [2][or section 34, sub-section (*2*),] or clause V, sub-clause (*2*), or clause XIII of the Schedule by an Electric Inspector. **Delegation of certain functions of Local Government to Electric Inspectors.**

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[1] These words were substituted for the words "the Secretary in the Public Works Department," by s 21 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).
[2] These words were inserted by section 22 of *ibid.*

(Part IV.—General. The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

Protection for acts done in good faith.

56. No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

Amendment of the Land Acquisition Act, 1894.

57. (*1*) In section 40, sub-section (*1*), clause (*b*), and section 41, sub-section (*5*), of the Land Acquisition Act, 1894, the term "work" **I of 1894.** shall be deemed to include electrical energy supplied, or to be supplied, by means of the work to be constructed.

(*2*) The Local Government may, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for the purposes of his undertaking, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894, in the same **I of 1894.** manner and on the same conditions as it might be acquired if the person were a company.

Repeals and savings.

58. (*1*) The Indian Electricity Act, 1903, is hereby repealed : **III of 1903.**

Provided that every application for a license made and every license granted under the said Act shall be deemed to have been made and granted under this Act.

(*2*) Nothing in this Act shall be deemed to affect the terms of any license which was granted, or of any agreement which was made, by or with the sanction of the Government for the supply or use of electricity before the commencement of this Act.

THE SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER PART II, SO FAR AS NOT ADDED TO, VARIED OR EXCEPTED BY THE LICENSE.

[*See section 3, sub-section (2), clause (f).*]

Security and Accounts.

Security for execution of works of licensee not being local authority.

I. Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely :—

(*a*) The licensee shall, within the period fixed in that behalf by his license or any longer period which the Local Government may substitute therefor by order under section 4, sub-section (*3*), clause (*b*), of the Indian Electricity Act, 1910, before exercising any of the powers by the license conferred on him

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

in relation to the execution of works, show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.

(*b*) The licensee shall also, within the period fixed in that behalf by his license, or any longer period which the Local Government may substitute therefor by order under section 4, sub-section (*3*), clause (*b*), of the Indian Electricity Act, 1910, and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the Local Government such sum (if any) as may be fixed by the license or, if not so fixed, by the Local Government.

(*c*) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such instalments, as may be approved by the Local Government.

Audit of accounts of licensee not being local authority.

II. Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely :—

(*a*) The annual statement of accounts of the undertaking shall, before being rendered under section 11 of the Indian Electricity Act, 1910, be examined and audited by such person as the Local Government may appoint or approve in this behalf, and the remuneration of the auditor shall be such as the Local Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Local Government shall approve, shall be paid by the licensee on demand.

(*b*) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

(c) The audit shall be made and conducted in such manner as the Local Government may direct.

(d) Any report made by the auditor, or such portion thereof as the Local Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.

(e) Notwithstanding the foregoing provisions of this clause, the Local Government may, if it thinks fit, accept the examination and audit of an auditor appointed by the licensee.

Separate accounts.

III. The licensee shall, unless the Local Government otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Compulsory works and supply.

Execution of work after commencement of license.

IV. The licensee shall, within a period of three years after the commencement of the license, execute to the satisfaction of the Local Government all such works as may be specified in the license in this behalf or, if not so specified, as the Local Government may, by order in writing issued within six months of the date of the commencement of the license, direct.

Provisions as to laying down of further distributing mains.

V. (1) Where, after the expiration of two years and six months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the Local Government or a local authority charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

(a) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than two years to such amount

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee; or

(*b*) where it is made by the Local Government or a local authority, the Local Government or local authority, as the case may be, does not, within the like period, tender a like contract binding itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

(*2*) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Local Government, and either decided by it or, if it so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1910; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

Requisition for supply to owners or occupiers in vicinity.

VI. (*1*) Where [1][after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced] a requisition is made by the owner or occupier of any premises situate within [2][the area of supply] requiring the licensee to supply energy for such premises, the licensee shall, within one month from the making of the requisition [3][or within such longer period as the Electric Inspector may allow,] supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition:

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1 These words were inserted by s. 23 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).
2 These words were substituted for the words "one hundred yards from any distributing main" by *ibid.*
3 These words were inserted by *ibid.*

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

Provided, first, that the licensee shall not be bound to comply with any such requisition unless and until the person making it—

(a) within fourteen days after the service on him by the licensee of a notice in writing in this behalf, tenders to the licensee a written contract, in a form approved by the Local Government, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee, and

(b) if required by the licensee so to do, pays to the licensee the cost of so much of any service line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any service line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main, although not on that property:

Provided, secondly, that the licensee shall be entitled to discontinue such supply—

(a) if the owner or occupier of the property to which the supply is made has not already given security, or if any security given by him has become invalid or insufficient, and such owner or occupier fails to furnish security or to make up the original security to a sufficient amount, as the case may be, within seven days after the service upon him of notice from the licensee requiring him so to do, or

(b) if the owner or occupier of the property to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or

(c) if the electric wires, fittings, works and apparatus in such property are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persons, or

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

(*d*) if the owner or occupier makes any alterations of, or additions to, any electric wires, fittings, works or apparatus within such property as aforesaid, and does not notify the same to the licensee before the same are connected to the source of supply, with a view to their being examined and tested: [1][but the licensee shall re-connect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it];

Provided, thirdly, that the maximum rate per unit of time at which the owner or occupier shall be entitled to be supplied with energy shall not exceed what is necessary for the maximum consumption on his premises, and, where the owner or occupier has required a licensee to supply him at a specified maximum rate, he shall not be entitled to alter that maximum, except after one month's notice in writing to the licensee, and the licensee may recover from the owner or occupier any expenses incurred by him by reason of such alteration in respect of the service lines by which energy is supplied to the property beyond one hundred feet from the licensee's distributing main, or in respect of any fittings or apparatus of the licensee upon that property: and

Provided, fourthly, that, [2][if any requisition is made for a supply of energy and] the licensee can prove, to the satisfaction of an Electric Inspector,—

(*a*) that [3][the nearest distributing main] is already loaded up to its full current-carrying capacity, or

(*b*) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period not exceeding six months, as such Inspector may think sufficient for the purpose of amending the distributing main or laying down or placing a further distributing main.

(*2*) Any service line laid for the purpose of supply in pursuance of a requisition under sub-clause (*1*) shall, notwithstanding that a portion

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[1] These words were added by s. 23 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] These words were substituted for the words "in the event of any requisition being made for a supply of energy from any distributing main of which" by *ibid.*

[3] These words were substituted for the word "it" by *ibid.*

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

of it may have been paid for by the person making the requisition, be maintained by the licensee.

(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as aforesaid, or as to the cost of any service line or as to the sufficiency of the security offered by any owner or occupier, or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to the amount of the expenses incurred under the third proviso to sub-clause (1), the matter shall be referred to an Electric Inspector and decided by him.

(4) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(5) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1910; and copies of the forms shall be kept at the office of the licensee and supplied free of charge to any applicant.

Further provisions as to laying of service lines.

[1][VII. The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed, twenty-one days' notice stating that the licensee intends to lay down or place a service line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the provisions of the license, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line.]

Supply for public lamps.

VIII. (1) Where [2][after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced] a requisition is made by the Local Government or by a local authority requiring the licensee to supply for a period of not less than seven years energy for any public lamps within the [3][area of supply,] the licensee shall supply,

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1 This clause was substituted by s. 24 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 These words were inserted by s. 25 of *ibid*.

3 These words were substituted for the words "distance of one hundred yards from any distributing main" by *ibid*.

and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the Local Government or the local authority, as the case may be, may require.

(2) The provisions of sub-clause (*b*) of the first proviso, of sub-clauses (*c*) and (*d*) of the second proviso, and of the third and fourth provisos to sub-clause (*1*) and the provisions of sub-clauses (2) and (3) of clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Local Government or local authority were an owner or occupier within the meaning of those provisions

Supply by bulk-licensees.

Special provisions applying to supply by bulk-licensees.

IX. (*1*) Where, and in so far as, the licensee (hereinafter in this clause referred to as " the bulk-licensee ") is authorised by his license to supply energy to other licensees for distribution by them (hereinafter in this clause referred to as " distributing-licensees ") the following provisions shall apply, namely :—

(*a*) any distributing-licensees within the bulk-licensee's area of supply may make a requisition on the bulk-licensee, requiring him to give a supply of energy and specifying the point, and the maximum rate per unit of time, at which such supply is required, and the date upon which the supply is to commence, such date being fixed after the date of receipt of the requisition so as to allow an interval that is reasonable with regard to the locality and to the length of the electric supply-line and the amount of the plant required;

(*b*) such distributing-licensee shall, if required by the bulk-licensee so to do, enter into a written agreement to receive and pay for a supply of energy for a period of not less than seven years of such an amount that the payment to be made for the same at the rate of charge for the time being charged for such supply shall not be less than such an amount as will produce a reasonable return to the bulk-licensee on the outlay

(excluding expenditure on generating plant then existing and any electric supply-line then laid down or placed) incurred by him in making provision for such supply;

(c) the maximum rate per unit of time at which a distributing-licensee shall be entitled to be supplied with energy shall not exceed what is necessary for the purposes for which the supply is required by him, and need not be increased except upon a fresh requisition made in accordance with the foregoing provisions;

(d) if any difference or dispute arises under this clause, it shall be determined by arbitration, and, in the event of such arbitration, the arbitrator shall have regard to the following amongst other considerations, namely:—

(i) the period for which the distributing-licensee is prepared to bind himself to take energy;

(ii) the amount of energy required and the hours during which the bulk-licensee is to supply it;

(iii) the capital expenditure incurred or to be incurred by the bulk-licensee in connection with the aforesaid supply of energy; and

(iv) the extent to which the capital expended or to be expended by the bulk-licensee in connection with such supply may become unproductive upon the discontinuance thereof.

(2) Notwithstanding anything in sub-clause (1), the bulk-licensee shall give a supply of energy to any distributing-licensee within his area of supply applying therefor, even although the distributing-licensee desires to be supplied with only a portion of the energy required for distribution by him:

Provided that the distributing-licensee shall, if so required by the bulk-licensee, enter into an agreement to take such energy upon special terms (including a minimum annual sum to be paid to the bulk-licensee) to be determined, if necessary, by arbitration in the manner laid down in sub-clause (1) (d).

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

(*3*) The maximum price fixed by a license for energy supplied to a distributing-licensee shall not apply to any partial supply given under sub-clause (*2*).

(*4*) Every distributing-licensee, who is supplied with energy by a bulk-licensee and intends to discontinue to receive such supply, shall give not less than twelve months' notice in writing of such intention to the bulk-licensee :

Provided that, where the distributing-licensee has entered into a written agreement with the bulk-licensee to receive and pay for a supply of energy for a certain period, such notice shall be given so as not to expire before the end of that period.

Charges.

X. [1]* * * * * *

Methods of charging. [2][(*1*)] [1]* * * Where the licensee charges by any method [3][approved by the Local Government in accordance with section 23, sub-section (*3*), clause (*c*), of the Indian Electricity Act, 1910,] any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method :

IX of 1910.

[2][(*2*)] [1]* * * Before commencing to supply energy through any distributing main, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Local Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main :

[2][(*3*)] [1]* * * If the consumer is provided with a meter in pursuance of the provisions of section 26, sub-section (*1*), of the Indian Electricity Act, 1910, and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee

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[1] The first part of the clause and the first three words of each of the three provisos were omitted by s. 26 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

[2] Each of the original provisos was numbered as a sub-clause by *ibid.*

[3] These words were substituted for the words "so approved by the Local Government" by *ibid.*

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

Maximum charges.

XI. Save as provided by clause IX, sub-clause (3), the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his license, or, in the case of a method of charge approved by the Local Government, such maxima as the Local Government shall fix on approving the method:

Provided, that, if, at any time after the expiration of seven years from the commencement of the license, the Local Government considers [1]* * * that the maxima so fixed or approved as aforesaid should be altered, it [2][shall refer the matter to an Advisory Board and, if the Board recommends any alteration, may make an order in accordance with such recommendation], which shall have effect from such date as may be mentioned therein:

Provided, also, that, where an order in pursuance of the foregoing proviso has been made, no further order altering the maxima fixed thereby shall be made until the expiration of another period of five years.

Minimum charges.

[3][XIA. A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his license, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.]

Charge for supply for public lamps.

XII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the Local Government or the local authority, as the case may be, and, where any difference or dispute arises, the matter shall be determined by arbitration.

Testing and Inspection.

Licensee to establish testing stations and keep instruments for testing.

XIII. The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the Local

1 The words "or is satisfied" were omitted by s. 27 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

2 These words were substituted for the words "may, after such inquiry (if any) as it thinks fit, make an order accordingly" by *ibid.*

3 This clause was added by s. 28 of *ibid.*

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

Government may direct for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as an Electric Inspector may approve, and shall supply energy to each testing station for the purpose of testing.

Facilities for testing.

XIV. The licensee shall afford all facilities for inspection and testing of his works and for the reading, testing and inspection of his instruments, and may, on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represented by an agent, who may be present, but shall not interfere with the reading, testing or inspection.

Testing of works.

XV. On the occasion of the testing of any works of the licensee by an Electric Inspector reasonable notice thereof shall be given to the licensee; and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Local Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee himself has access to the same:

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the Electric Inspector for the purpose of, any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Local Government.

Plans.

Plan of area of supply to be made and kept open for inspection.

XVI. (*1*) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignment [1][and, in the case of underground works, the approximate depth] below the surface of all his then

[1] These words were substituted for the words "and the approximate height above or depth" by s. 29 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II, so far as not added to, varied or excepted by the license.)

existing electric supply-lines, street-distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the electric supply-lines, street-distributing boxes and other works for the time being in position. The licensee shall also, if so required by an Electric Inspector, cause to be made sections showing the approximate level of all his existing underground works other than service lines.

[1][(2) Every such plan shall be drawn to such scale as the Local Government may require: provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public.]

[1][(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Local Government may require.]

(4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Indian Electricity Act, 1910.

(5) The licensee shall, if required by an Electric Inspector and, where the licensee is not a local authority, by the local authority (if any) concerned, supply free of charge to such Electric Inspector or local authority a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works.

Notice to Electric Inspector.

XVII On the day next preceding the commencement of any such works as are referred to in section 13 of the Indian Electricity Act, 1910, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Electric Inspector, or such officer as the Local Government may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.

[1] These two sub-clauses were substituted by s. 29 of the Indian Electricity (Amendment) Act, 1922 (1 of 1922).

ACT X OF 1910.[1]

[*18th March, 1910.*]

An Act to consolidate and amend the law relating to the Indian Museum.

WHEREAS it is expedient to consolidate and amend the law relating to the Indian Museum; It is hereby enacted as follows:—

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Indian Museum Act, 1910.

(*2*) It shall come into force on such [2]date as the Governor General in Council, by notification in the Gazette of India, may direct.

Incorporation of the Trustees.

Constitution and incorporation of the Trustees of the Indian Museum.

2. (*1*) The Trustees of the Indian Museum (hereinafter called the Trustees) shall be—

(*a*) the [3][seven] persons for the time being performing the duties of the following offices, namely:—

(i) the Accountant General of Bengal;

(ii) the Principal, Government School of Art, Calcutta;

(iii) the Director, Geological Survey of India;

[4][(iv) the Director, Zoological Survey of India];

(v) the Director General of Archæology; [5]*

[6][(vi) the Superintendent, Archæological Section of the Museum; and]

[7](vii) the Officer in charge of the Industrial Section of the Museum;

(*b*) one other person to be nominated by the Governor General in Council;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1909, Pt. V, p. 109; for Report of Select Committee, *see ibid*, 1910, Pt. V, p. 65; and for Proceedings in Council, *see ibid*, 1909, Pt. VI, p. 162, and *ibid*, 1910, Pt. VI, pp. 91, 159 and 284, dated 26th February 1910, 19th March 1910 and 9th April 1910, respectively.

[2] The 1st June, 1910, *see* Gen. R. and O., Vol. IV, p. 67.

[3] This word was substituted for the word "six" by s. 2 of the Indian Museum (Amendment) Act, 1922 (17 of 1922).

[4] This clause was substituted by *ibid*.

[5] The word "and" was omitted by *ibid*.

[6] This clause was inserted by *ibid*.

[7] Clause (*vi*) was re-numbered (*vii*) by *ibid*.

(*c*) three other persons to be nominated by [1][the Governor of Fort William in Bengal];

(*d*) one other person to be nominated by the Council of the Asiatic Society of Bengal;

(*e*) one other person to be nominated by the Bengal Chamber of Commerce;

(*f*) one other person to be nominated by the British Indian Association, Calcutta;

(*g*) one other person to be nominated by the Syndicate of the Calcutta University; and

(*h*) three other persons to be nominated by the Trustees.

(*2*) The Trustees shall be a body corporate, by the name of "The Trustees of the Indian Museum," with perpetual succession and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act

(*3*) The nominated Trustees shall, save as herein otherwise provided, hold office for a period of three years:

Provided that the authority nominating a Trustee may extend his term of office for one or more like periods.

Minimum number of Trustees and quorum.

3. (*1*) The powers of the said body corporate may only be exercised so long and so often as there are nine members thereof.

(*2*) The quorum necessary for the transaction of business at a meeting of the Trustees shall not be less than six.

Power to appoint new Trustees.

4. If a nominated Trustee—

(*a*) dies, or

(*b*) is absent from the meetings of the Trustees for more than twelve consecutive months, or

(*c*) desires to be discharged, or

(*d*) refuses or becomes incapable to act, or

(*e*) is appointed to perform the duties of any office specified in section 2, clause (*a*),

the authority which nominated the Trustee may nominate a new Trustee in his place.

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1 These words were substituted for the words "the Lieutenant-Governor of Bengal" by s. 7, Schedule E, of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), Ben. Code, Vol. I.

XXII of 1876.

5. From the commencement of this Act the term of office of all persons appointed to be Trustees under the [1]Indian Museum Act, 1876, shall cease. **Vacation of office by existing Trustees.**

Property and powers of the Trustees.

XXII of 1876.

6. (*1*) All the property, whether moveable or immoveable, which at the commencement of this Act is held by the Trustees of the Indian Museum constituted by the [1]Indian Museum Act, 1876, on trust for the purposes of the said Museum shall, together with any such property which may hereinafter be given, bequeathed, transferred or acquired for the said purposes, vest in the Trustees of the Indian Museum constituted by this Act on trust for the purposes of the said Museum: **Property vested in or placed under the control of the Trustees.**

Provided that the Trustees may expend the capital of any portion of such property which may consist of money on the maintenance, improvement and enlargement of the collections deposited in, presented to or purchased for, the said Museum or otherwise for the purposes of the same as they may think fit.

(*2*) The Trustees shall have the exclusive possession, occupation and control, for the purposes of such trust, of the land specified in the schedule, including any buildings which may have been, or may hereafter be, erected thereon, other than those portions thereof which have been set apart by the Trustees for the records and offices of the Geological Survey of India

7. Subject to the provisions of any bye-laws made in this behalf, the Trustees may, from time to time,— **Power to Trustees to exchange, sell and destroy articles in collections.**

(*a*) deliver, by way of loan, to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act;

(*b*) exchange or sell duplicates of articles contained in any such collection and take or purchase, in the place of such duplicates, such articles as may in their opinion be worthy of preservation in the Museum;

(*c*) present duplicates of articles contained in any such collection to other Museums in British India; and

(*d*) remove and destroy any article contained in any such collection.

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[1] Repealed by this Act.

Power to Trustees to make bye-laws.

8. (1) The Trustees may from time to time, with the previous sanction of the Governor General in Council, make bye-laws consistent with this Act for any purpose necessary for the execution of their trust.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the summoning, holding and adjournment of general and special meetings of the Trustees;

(b) the securing of the attendance of Trustees at such meetings;

(c) the provision and keeping of minute-books and account-books;

(d) the compiling of catalogues;

(e) the lending of articles contained in the collections vested in the Trustees;

(f) the exchange and sale, and the presentation to other Museums in British India, of duplicates of articles contained in such collections;

(g) the removal and destruction of articles contained in such collections; and

(h) the general management of the Museum.

Power to Trustees to appoint officers and servants.

9. Subject to such regulations and conditions as may be prescribed by them in this behalf, the Trustees shall appoint such officers and servants as may be necessary or proper for the care or management of the trust-property, and may assign to such officers and servants such pay as they may think fit:

Provided that—

(a) no officer shall be appointed—

(i) if such officer is, at the date of his appointment, in India, without the approval of the Governor General in Council, or

(ii) if such officer is not then in India, without the approval of the Secretary of State for India in Council; and

(b) no new office shall be created, and no salaries of officers shall be altered, without the previous sanction of the Governor General in Council.

Duties of the Trustees.

10. (1) The Trustees shall furnish on or before the first day of December in each year— Trustees to furnish annual reports and accounts.

(a) to the Government of India a report of their several proceedings for the previous financial year, and

(b) to such auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the Trustees during the previous financial year, supported by the necessary vouchers.

(2) The Trustees shall cause such report and accounts to be published annually for general information.

11. (1) The Trustees shall cause every article in the collections in the said Indian Museum formerly belonging to the Asiatic Society of Bengal and all additions that may hereafter be made thereto otherwise than by purchase under section 6, to be marked and numbered and (subject to the provisions contained in sections 7 and 16) to be kept and preserved in the said Museum with such marks and numbers. Collections of Asiatic Society to be kept distinguished in the Museum.

(2) An inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the Trustees and delivered to the said Society, and another copy shall be signed by the Council of the said Society and delivered to the Trustees, and shall be kept by them along with the inventory delivered to the predecessors in office of the Trustees when the said collections were deposited in the said Museum.

12. All objects taken in exchange and articles purchased under section 7 and all moneys realised from sales made in accordance with the terms of the same section shall be held on trust and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared. Articles received in exchange or purchased and moneys realized from sale to to be held on trust.

Supplemental Provisions.

13. All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code; XLV of 1860. and, so far as regards their salaries, allowances and pensions, and their leave of absence from duty, they shall be subject to the rules which under the Civil Service Regulations for the time being in force would be applicable if their service was service under Government. Officers under Act to be public servants and subject to Civil Service Regulations.

Power to Trustees to keep collections not belonging to them.

14. Notwithstanding anything hereinbefore contained, the Trustees may, if they think fit, with the previous sanction of the Governor General in Council and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trust under this Act, and keep and preserve such collections either in the Indian Museum or elsewhere :

Provided that, if the trust constituted by this Act is at any time determined, any such collections shall not by reason of their then being in the Indian Museum become the property of His Majesty.

Power to Trustees to part with certain property in their possession.

15. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of the whole or any part of the property described in the schedule to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

Property in collections on determination of trust.

16. If the trust constituted by this Act is at any time determined,—

(*a*) the collections and additions mentioned in section 11 shall become the property of the said Asiatic Society or their assigns, and

(*b*) all the other collections then in the said Indian Museum shall, save as otherwise provided by section 14, become the property of His Majesty.

17. [*Repeals*] *Rep. Act X of 1914, Sch. II.*

THE SCHEDULE.

(*See sections 6 and 15.*)

Land bounded—

on the north side by the premises No. 2, Sudder Street, and by Sudder Street;

on the west side by Chowringhee Road and by the premises No. 29, Chowringhee Road (occupied by the Bengal United Service Club);

on the south side by the premises No. 29, Chowringhee Road, by Kyd Street, and by the Premises No. 4, Chowringhee Lane, and

on the east side by the premises No. 15, Kyd Street, and the premises Nos. 4, 3, 2 and 1, Chowringhee Lane,

together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

ACT No. XII of 1910.[1]

[*23rd March. 1910.*]

An Act to amend the Law relating to Glanders and Farcy.

WHEREAS it is expedient to amend the law relating to Glanders and Farcy; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Glanders and Farcy Law Amendment Act, 1910.

Repeal of part of Schedule II Act XI, 1901 **2.** Part II of the Second Schedule to the Repealing and Amending Act, 1901, is hereby repealed. (XI of 1901.)

Amendment of section 3, Act XIII, 1899. **3.** In section 3 of the Glanders and Farcy Act, 1899, (XIII of 1899.) after the words "any provision of this Act," the words "so far as all or any of the diseases mentioned in, or specified in a notification under section 2, sub-section (*1*), are concerned," shall be inserted.

ACT No. XIII of 1910.[2]

[*23rd March, 1910*]

An Act to amend the Prisons Act, 1894.

WHEREAS it is expedient to amend the Prisons Act, 1894 (IX of 1894.); It is hereby enacted as follows:—

Short title **1.** This Act may be called the Prisons (Amendment) Act, 1910.

Amendment of section 52, Act IX, 1894. **2.** In section 52 of the Prisons Act, 1894, (IX of 1894.) the following amendments shall be made, namely:—

(1) after the words "Magistrate of the first class" the words "or Presidency Magistrate" shall be inserted; and

(2) for the first proviso the following shall be substituted, namely:—

"Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate: and".

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 73; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, pp. 285 and 336, dated 9th April 1910.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 75; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, pp. 285 and 337, dated 9th April 1910.

THE INDIAN PATENTS AND DESIGNS ACT, 1911.

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ACT No. II of 1911.[1]

[*1st March, 1911.*]

An Act to amend the law relating to the protection of Inventions and Designs.

WHEREAS it is expedient to amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Patents and Designs Act, 1911.

(*2*) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas; and

(*3*) It shall come into force on the first day of January 1912.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Advocate General" includes a Government Advocate:

(*2*) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural:

(*3*) "Controller" means the Controller of Patents and Designs appointed under this Act:

(*4*) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered:

(*5*) "design" means any design applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 92; for Report of Select Committee, *see ibid*, 1911, Pt. V, p. 1; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, p. 337, dated 9th April 1910, and *ibid*, 1911, Pt. VI, pp. 31, 45 and 179.

chemical, separate or combined, but does not include any trade or property mark as defined in sections 478 and 479 of the Indian Penal Code :

XLV of 1860.

(6) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, 1908 :

V of 1908.

(7) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1898, in reference to proceedings against European British subjects :

V of 1898.

(8) "invention" means any manner of new manufacture, and includes an improvement and an alleged invention :

(9) "legal representative" means a person who in law represents the estate of a deceased person :

(10) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(11) "patent" means a patent granted under the provisions of this Act :

(12) "patentee" means the person for the time being entitled to the benefit of a patent :

(13) "prescribed" includes prescribed by rules under this Act : and

(14) "proprietor of a new and original design,"—

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed ; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and

(c) in any other case, means the author of the design ;

and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I.

PATENTS.

Application for and Grant of Patent.

Application.

3. (*1*) An application for a patent may be made by any person whether he is a British subject or not, and whether alone or jointly with any other person.

(*2*) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner.

(*3*) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee.

(*4*) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

Specification.

4. (*1*) The specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(*2*) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(*3*) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(*4*) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

5. (*1*) The Controller shall examine every application, and if he considers that— **Proceedings upon application.**

(*a*) the nature of the invention is not fairly described, or

(*b*) the application, specification and drawings have not been prepared in the prescribed manner or relate to more than one invention, or

(*c*) the title does not sufficiently indicate the subject-matter of the invention, or

(*d*) the statement of claim does not sufficiently define the invention, or

(*e*) the invention as described and claimed is *prima facie* not a new manufacture or improvement,

he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with.

(*2*) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the Governor General in Council

(*3*) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Governor General in Council or any Officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(*4*) Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void :

Provided that where an application is made for an extension of time for the acceptance of an application, the Controller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

Advertisement on acceptance of application.

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise the acceptance; and the application and specification, with the drawings (if any), shall be open to public inspection.

Use of invention on acceptance of application.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent shall not prejudice the patent to be granted for the invention:

Provided that an applicant shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

Inquiry before sealing patent.

8. After acceptance of an application and before sealing a patent, the Controller shall, if he thinks it advisable or is directed by the Governor General in Council so to do, refer the specification for inquiry and report to any person whom he thinks fit.

Opposition to grant of patent.

9. *(1)* Any person may, on payment of the prescribed fee, at any time within three months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely:—

(a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign; or

(b) that the invention has been claimed in any specification filed in British India which is or will be of prior date to the patent, the grant of which is opposed; or

(c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification; or

(d) that the invention has been publicly used in any part of British India; or has been made publicly known in any part of British India;

but on no other ground.

(Part I.—Patents.)

(2) Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case

(3) The decision of the Controller shall be subject to appeal to the Governor General in Council.

10. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted, subject to such conditions (if any) as the Governor General in Council thinks expedient, to the applicant, or in the case of a joint application to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office. **Grant and sealing of patent.**

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application:

Provided that,—

(a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent;

(b) where the sealing is delayed by an appeal to the Governor General in Council, or by a reference under section 8, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct;

(c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death;

(d) where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

Date of patent.

11. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application:

Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the specification.

Effect, extent and form of patent.

12. *(1)* A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling and using the invention throughout British India and of authorizing others so to do.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Fraudulent applications for patents.

13. *(1)* A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked on the ground of fraud or on any other ground, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked for any invention comprised in the revoked patent to which he was entitled:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Term of patent.

Term of patent.

14. *(1)* The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times:

Provided that the Controller, upon the application of the patentee, shall, on receipt of such additional fee as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement

Extension of term of patent.

15. (1) A patentee may, after advertising in the prescribed manner his intention to do so, present a petition to the Governor General in Council praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee.

(2) Any person may give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the Governor General in Council may, as he thinks fit, dispose of the petition himself or refer it to a High Court for decision.

(4) If the petition be referred to a High Court, then on the hearing of such petition under this section, the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) If it appears to the Governor General in Council, or to the High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Governor General in Council or the High Court, as the case may be, may by order extend

the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Governor General in Council or the High Court, as the case may be, may think fit :

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

Restoration of lapsed patent.

16. (*1*) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

(*2*) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(*3*) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

(*4*) Where such notice is given the Controller shall notify the applicant thereof.

(*5*) After the expiration of the prescribed period, the Controller shall hear the case and, subject to an appeal to the Governor General in Council, issue an order either restoring the patent subject to any conditions [1][and restrictions] deemed to be advisable or dismissing the application :

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

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[1] These words were inserted by s. 2 and Sch. I of the Second Repealing and Amending Act, 1914 (17 of 1914).

(*Part I.—Patents.*)

Amendment of Application or Specification.

Amendment of application or specification by Controller.

17. (*1*) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof by way of disclaimer, correction or explanation, stating the nature of, and the reasons for, the proposed amendment.

(*2*) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(*3*) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(*4*) Where such a notice is given, the Controller shall give notice of the opposition to the person making the request and shall hear and decide the case.

(*5*) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(*6*) The decision of the Controller in either case shall be subject to an appeal to the Governor General in Council.

(*7*) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(*8*) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(*9*) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

(*Part I.—Patents.*)

Amendment of specification by the Court.

18. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent, the Court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit:

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court, notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

Restriction on recovery of damages.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention before the disclaimer, correction or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Register of Patents.

Register of Patents.

20. (*1*) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(*2*) The register of inventions and address-book existing at the commencement of this Act shall be incorporated with, and form part of, the register of patents under this Act.

(*3*) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(*4*) Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office, and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent.

(Part I.—Patents.)

Crown.

Patent to bind Crown.

21. Subject to any conditions which the Governor General in Council may have imposed, a patent shall have to all intents the like effect as against His Majesty as it has against a subject:

Provided that the officers or authorities administering any department of the service of His Majesty may, by themselves, their agents, contractors or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor General in Council, between those officers or authorities and the patentee, or, in default of agreement, as may be settled by the Governor General in Council after hearing all parties interested.

Compulsory Licenses and Revocation.

Compulsory licenses and revocation.

22. *(1)* Any person interested may present a petition to the Governor General in Council, which shall be left at the Patent Office, together with the prescribed fee, alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory license, or, in the alternative, for the revocation of the patent.

(2) The Governor General in Council shall consider the petition, and if the parties do not come to an arrangement between themselves, the Governor General in Council may, as he thinks fit, either dispose of the petition himself or refer it to a High Court for decision.

(3) The provisions of sub-section *(4)* of section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Governor General in Council is of opinion, or where a reference has been made under sub-section *(2)* to a High Court, that Court finds, that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered to grant licenses on such terms as the Governor General in Council or the High Court, as the case may be, may think just, or,

if the Governor General in Council or the High Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licenses, the patent may be revoked by order of the Governor General in Council or the High Court:

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(*5*) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(*a*) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in British India is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

(*b*) if any trade or industry in British India is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Act to the purchase, hire or use of the patented article or to the using or working of the patented process.

(*6*) An order of the Governor General in Council or of the High Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement operate as if it were embodied in a deed granting a license and made between the parties to the proceeding.

Revocation of patents worked outside British India.

23. (*1*) At any time not less than four years after the date of a patent granted under this Act, any person may apply to the Governor General in Council for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The Governor General in Council shall consider the application, and if, after inquiry, he is satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India; and

(c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Governor General in Council may make an order revoking the patent either—

(i) forthwith; or

(ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent.

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any treaty, convention, arrangement or engagement with any foreign country or British possession.

(4) The Governor General in Council may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as he may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in his opinion shown by the patentee.

Power of Controller to revoke surrendered patent.

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

Revocation of patent on public grounds.

25. A patent shall be deemed to be revoked if the Governor General in Council declares, by notification in the Gazette of India, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

(Part I.—Patents.)

Legal Proceedings.

Petition for revocation of patent.

26. *(1)* Revocation of a patent in whole or in part may be obtained on petition to a High Court on all or any of the following grounds, namely :—

(*a*) that any invention included in the statement of claim is of no utility;

(*b*) that any invention included in the statement of claim was not, at the date of the application for a patent. a new invention within the meaning of this Act;

(*c*) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof;

(*d*) that the original or any amended application or specification does not fulfil the requirements of this Act;

(*e*) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification, as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor;

(*f*) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement;

(*g*) that a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.

(*2*) A petition for revocation of a patent may be presented—

(*a*) by the Advocate General or any person authorized by him; or

(*b*) by any person alleging—

(i) that the patent was obtained in fraud of his rights or of the rights of any person under or through whom he claims; or

(ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee; or

(iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within British India, before the date of the patent, anything claimed by the patentee as his invention.

V of 1908. (4) The High Court may, irrespective of any provisions of the Code of Civil Procedure, 1908, in this behalf, require any person, other than the Advocate General or any person authorized by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

Notice of proceedings to persons interested.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

Framing issue for trial before other Courts.

28. (1) A High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court or any District Court, of any question arising upon a petition to itself under section 26, and the issue shall be tried accordingly.

(2) If the issue is directed to another High Court, the finding shall be certified by that Court to the High Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court directing the issue, and the High Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Suits for infringement of patents.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person who, during the continuance of a patent acquired by him under this Act in respect of an

invention, makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

(2) Every ground on which a patent may be revoked under this Act shall be available by way of defence to a suit for infringement.

Exemption of innocent infringer from liability for damages. **30.** A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent", "patented", or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

Order for inspection, etc., in suit. **31.** In a suit for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court may see fit.

Certificate of validity questioned and costs thereon. **32.** In a suit for infringement of a patent the Court may certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of an incidental to the said suit properly incurred.

Transmission of decrees and orders to the Controller. **33.** A Court making a decree in a suit under section 29 or an order on a petition under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents.

Power of High Court to stay proceedings, etc. **34.** A High Court to which a petition has been presented under section 26 may stay proceedings on or dismiss the petition if in its opinion the petition would be disposed of more justly or conveniently by another High Court.

(Part I.—Patents.)

35. (1) In a suit or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance. **Hearing with assessor.**

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Act.

36. Where any person claiming to be the patentee of an invention, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats: **Remedy in case of groundless threats of legal proceedings.**

Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes a suit for infringement of his patent.

Miscellaneous.

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives. **Grant of patents to two or more persons.**

(Part I.—Patents.)

Novelty of invention.

38. (*1*) An invention shall be deemed a new invention within the meaning of this Act—

(*a*) if it has not, before the date of the application for a patent thereon, been publicly used in any part of British India, or been made publicly known in any part of British India, and

(*b*) if the inventor has not by secret or experimental user made direct or indirect profits from his invention in excess of such an amount as the Court or the Governor General in Council, as the case may be, may, in consideration of all the circumstances of the case, deem reasonable.

(*2*) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Act if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence:

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

Loss or destruction of patent.

39. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof.

Provisions as to exhibitions.

40. (*1*) The exhibition of an invention at an industrial or international exhibition, certified as such by the Governor General in Council, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application:

Provided that—

(*a*) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so; and

(*b*) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(*Part I.—Patents. Part II.—Designs.*)

(2) The Governor General in Council may, by notification in the Gazette of India, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

41. The trustees of the Indian Museum may at any time require a patentee to furnish them with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the model or sample, the amount to be settled, in case of dispute, by the Governor General in Council. Models to be furnished to Indian Museum.

42. (*1*) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any Court in British India, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from British India. Foreign vessels in British Indian waters.

(*2*) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that State, or in the waters within the jurisdiction of its Courts.

PART II.

DESIGNS.

Registration of Designs.

43. (*1*) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in British India, register the design under this Part. Application for registration of designs.

(*2*) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.

(*Part II.—Designs.*)

(*3*) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(*4*) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the Governor General in Council.

(*5*) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(*6*) A design when registered shall be registered as of the date of the application for registration.

Registration of designs in new classes.

44. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

(*a*) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or

(*b*) on the ground of the design having been previously published in British India, by reason only that it has been applied to goods of any class in which it was so previously registered.

Certificate of Registration.

45. (*1*) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

(*2*) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

Register of Designs.

46. (*1*) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

(*2*) The register of designs existing at the commencement of this Act shall be incorporated with, and form part of, the register of designs under this Act.

(*3*) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorised to be entered therein.

(Part II.—Designs.)

Copyright in Registered Designs.

47. *(1)* When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration. **Copyright on registration.**

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

48. *(1)* Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall— **Requirements before delivery on sale.**

(a) (if exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and

(b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Governor General in Council by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Governor General in Council may, if he thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as he thinks fit.

Effect of disclosure on copyright.

49. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Inspection of registered designs.

50. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorised in writing by him, or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof:

Provided that, where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

(*Part II.—Designs*)

51. On the request of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor. **Information as to existence of copyright.**

Industrial and International Exhibitions

52. (*1*) The exhibition at an industrial or international exhibition certified as such by the Governor General in Council, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof. **Provisions as to exhibitions.**

Provided that—

(*a*) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice of his intention to do so; and

(*b*) the application for registration is made before or within six months from the date of the opening of the exhibition.

(*2*) The Governor General in Council may, by notification in the Gazette of India, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

53. (*1*) During the existence of copyright in any design it shall not be lawful for any person— **Piracy of registered design.**

(*a*) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation

thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or,

(*b*) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(*2*) If any person acts in contravention of this section, he shall be liable for every contravention—

(*a*) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or

(*b*) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of any one design under clause (*a*) shall not exceed one thousand rupees.

(*3*) When the Court makes a decree in a suit under sub-section (*2*), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

Application of certain provisions of the Act as to patents to designs.

54. The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

55. (*1*) The Governor General in Council may provide, for the purposes of this Act, an office which shall be called, and is in this Act referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the Governor General in Council.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorised by the Governor General in Council.

56. The Governor General in Council may appoint the Controller, and so many officers and clerks, with such designations and duties, as he thinks fit **Officers and clerks.**

Fees.

57. (1) There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to the patents and designs under this Act, such fees as may be [1]prescribed by the Governor General in Council so, however, that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified. **Fees.**

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid

Provisions as to Registers and other Documents in the Patent Office.

58. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive. **Notice of trust not to be entered in registers.**

59. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee. **Inspection of, and extracts from, registers.**

60. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection. **Privilege of reports of Controller.**

[1] For fees prescribed, *see* note to s. 77 *infra*.

(*Part III.—General.*)

Prohibition of publication of specification, drawings, etc., where application abandoned, etc.

61. (*1*) Where an application for a patent has been abandoned or become void, the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the Controller

(*2*) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

Power for Controller to correct clerical errors.

62. The Controller may, on request in writing accompanied by the prescribed fee,—

(*a*) correct any clerical error in or in connection with an application for a patent or in any patent or any specification;

(*b*) cancel the registration of a design either wholly or in respect of any particular goods in connection with which the design is registered;

(*c*) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs.

Entry of assignments and transmissions in registers.

63. (*1*) Where a person claims to be entitled by assignment, transmission or other operation of law to a patent, or to the copyright in a registered design, the Controller shall, on request and on proof of the title to his satisfaction, register his interest in such patent or design.

(*2*) Where any person claims to be entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, the Controller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be.

(*3*) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design, and

to give effectual receipts for any consideration for any such assignment, license or dealing :

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

64. (*1*) A High Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as it may think fit. **Rectification of register by Court.**

(*2*) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(*3*) The prescribed notice of any application under this section shall be given to the Controller, who shall have the right to appear and be heard thereon.

(*4*) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

(*5*) A High Court to which an application has been made under this section may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Powers and Duties of Controller.

65. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a Civil Court for the purpose of receiving evidence and administering oaths and enforcing the attendance of witnesses and compelling the production of documents and awarding costs. **Powers of Controller in proceedings under Act.**

66. The Controller shall issue periodically a publication of patented inventions containing such information as the Governor General in Council may direct. **Publication of patented inventions.**

(*Part III.—General.*)

Exercise of discretionary power by Controller.

67. Where any discretionary power is by, or under, this Act given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of Controller to take directions of Governor General in Council.

68. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Governor General in Council for directions in the matter.

Refusal to grant patent, etc., in certain cases.

69. The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

Appeals to the Governor General in Council.

70. (*1*) Where an appeal is declared by this Act to lie from the Controller to the Governor General in Council, the appeal shall be made within two months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(*2*) In calculating the said period of two months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(*3*) The Governor General in Council may, if he thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Governor General in Council shall be final.

Evidence, etc.

Certificate of Controller to be evidence.

71. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder, to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Transmission of certified printed copies of specifications, etc.

72. Copies of all specifications, drawings and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted as soon as may be, after they have been accepted or allowed at the Patent Office, to the Governor of Fort St. George in Council, the Governor of Bombay

in Council, the Lieutenant-Governor of Burma, and to such other authorities as the Governor General in Council may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times, at places to be appointed by those authorities.

Applications and notices by post.

73. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post.

Declaration by infant, lunatic, etc.

74. (*1*) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement, or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

(*2*) Any appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person, subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Agency.

Subscription and verification of certain documents.

75. The following documents, namely,—

(*1*) applications for a patent,

(*2*) notices of opposition,

(*3*) applications for extension of term of a patent,

(*4*) applications for the restoration of lapsed patents,

(*5*) applications for leave to amend,

(*6*) applications for compulsory license or revocation, and

(*7*) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices:

Provided that, if such person is absent from British India, they may be signed and verified on his behalf by an agent resident in British India authorized by him in writing in that behalf.

(Part III.—General.)

Agency.

76. *(1)* All other applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner, or by or through an agent authorized to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

(a) any such agent to be resident in British India;

(b) any person not residing in British India to employ an agent residing in British India;

(c) the personal signature or presence of any applicant, opponent or other person

Powers, etc., of Governor General in Council.

Power for Governor General in Council to make rules.

77. *(1)* The Governor General in Council may make such [1]rules as he thinks expedient, subject to the provisions of this Act—

(a) for regulating the practice of registration under this Act;

(b) for classifying goods for the purposes of designs;

(c) for making or requiring duplicates of specifications, drawings and other documents;

(d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor General in Council thinks fit, of specifications, drawings and other documents;

(e) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;

(f) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction or control of the Controller or of the Governor General in Council; and

(g) generally for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

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[1] For rules, *see* General Statutory Rules and Orders, Vol. IV, p. 68.

(*Part III.—General.*)

(3) All rules made under this section shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Offences.

78. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor. **Wrongful use of words "Patent Office."**

[1]*Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.*

[1]**78A.** (*1*) If His Majesty is pleased by Order in Council to apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs, to British India, then any person who has applied for protection for any invention or design in the United Kingdom [2][or his legal representative or assignee] shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the United Kingdom: **Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.** **7 Edw. VII, c. 29.**

Provided that—

(*a*) the application is made in the case of a patent within twelve months, and, in the case of a design, within four months from the application for protection in the United Kingdom; and

(*b*) nothing in this section shall entitle the patentee or the proprietor of the design to recover damages for infringements happening prior to the actual date on which, in the case of a patent, his application is accepted, or, in the case of a design, the design is registered, in British India.

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1 This heading and section 78A were inserted by s. 2 of the Indian Patents and Designs (Amendment) Act, 1920 (29 of 1920).

2 These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

(Part III.—General.)

(2) The patent granted for an invention or the registration of a design shall not be invalidated—

(a) in the case of a patent, by reason only of the publication of a description of, or use of, the invention, or

(b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design,

in British India during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Act :

Provided that, in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom, the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

(4) Where it is made to appear to the Governor General in Council that the legislature of any other part of His Majesty's dominions has made satisfactory provision for the protection of inventions or designs, patented or registered in British India, the Governor General in Council may, by notification[1] in the Gazette of India, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of His Majesty's dominions.

Savings and Repeal.

Savings for prerogative.

79. Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

80. [*Repeal.*] *Repealed by the Repealing Act, 1927 (XII of 1927).*

81. [*Substitution of patents for rights under repealed Act.*] *Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1920 (31 of 1920).*

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[1] For such Notification, *see* General Statutory Rules and Orders, Vol. IV, p. 117 *et seq.*

THE SCHEDULE.

(*See section 57.*)

FEES.

	Rs.
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	50
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	100
Before the expiration of the 13th year from the date of the patent	100
Provided that the fees for two or more years may be paid in advance.	
On application to extend term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15.	100
On application for registration of a design	3

ACT No. IV OF 1911.[1]

[*2nd March, 1911.*]

An Act to amend the Indian Ports Act, 1908.

XV of 1908. WHEREAS it is expedient to amend the Indian Ports Act, 1908; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Ports (Amendment) Act, 1911.

Amendment of section 6, Act XV, 1908. **2.** For clause (*p*) of section 6, sub-section (*1*), of the Indian Ports Act, 1908, the following shall be substituted, namely:— XV of 1908.

"(*p*) subject to the control of the Governor General in Council, for the prevention of danger arising to the public health by the

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 148; for Report of Select Committee, *see ibid*, 1911, Pt. V, p. 31; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp. 34, 45 and 183.

introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for—

(i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease;

(ii) the medical inspection of such vessels and of persons on board such vessels;

(iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels;

(iv) the detention of such vessels and of persons on board such vessels;

(v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels;

(vi) the removal to hospital or other place approved by the health officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease;

(vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels; and

(viii) the disposal of the dead on such vessels; and,".

ACT No. V OF 1911 [1]

[*2nd March, 1911.*]

An Act further to amend the Indian Tramways Act, 1886.

WHEREAS it is expedient further to amend the Indian Tramways Act, 1886; It is hereby enacted as follows:— XI of 1886.

Short title. 1. This Act may be called the Indian Tramways (Amendment) Act, 1911.

Substitution of new clause (5) in section 3, Act XI of 1886. XI of 1886. 2. For section 3, clause (5), of the Indian Tramways Act, 1886, the following shall be substituted, namely :—

"(5) 'tramway' means a tramway having one, two or more rails, and includes—

(*a*) any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway;

(*b*) any electrical equipment of a tramway; and

(*c*) any electric supply-line transmitting power from a generating station or sub-station to a tramway, or from a generating station to a sub-station from which power is transmitted to a tramway."

Amendment of clause (9) of section 3, Act XI of 1886. 3. In section 3, clause (9), of the said Act, after the words "mechanical power" the words "or electrical power" and after the word "producing" the words "or utilising" shall be inserted.

Substitution of new clause (e) in section 7(2), Act XI of 1886. 4. For section 7, sub-section (2), clause (*e*), of the said Act, the following shall be substituted, namely :—

"(*e*) the space which shall ordinarily intervene between the outside of the carriage way on either side of a road whereon the tramway is to be constructed, and—

(i) in the case of a tramway having one rail, the rail of the tramway, or

(ii) in the case of a tramway having two or more rails, the nearest rail of the tramway,

and the conditions on which a smaller space may be permitted."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1910, Pt. V, p. 119; for Report of Select Committee, *see ibid*, 1911, Pt. V, p. 35; and for Proceedings in Council, *see ibid*, 1910, Pt. VI, p. 3, dated 30th July 1910, and *ibid*, 1911, Pt. VI, pp. 34, 45 and 183.

Amendment of clause (*m*) of section 7 (2), Act XI of 1886.

5. In section 7, sub-section (2), clause (*m*), of the said Act, after the words "mechanical power" the words "or electrical power" shall be inserted.

Amendment of clause (*e*) of section 24 (*1*), Act XI of 1886.

6. In section 24, sub-section (*1*), clause (*e*), of the said Act, after the words "mechanical power" the words "or electrical power" shall be inserted.

Amendment of section 44, Act XI of 1886.

7. In section 44 of the said Act, after the word "engine-sheds" the words "electrical generating stations or sub-stations" shall be inserted.

THE INDIAN ARMY ACT, 1911.

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ACT No VIII of 1911 [1]

[16th March, 1911.]

An Act to consolidate and amend the law relating to the government of His Majesty's *[2] Indian Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the government of the [3][Indian] officers, soldiers and other persons in His Majesty's Indian Forces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Indian Army Act, 1911.

(2) It shall come into force on such [4]date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

Application of Act.

Persons subject to Act.

2. (1) The following persons shall be subject to this Act, namely :—

(a) [3][Indian] officers and warrant officers;

(b) persons enrolled under this Act;

(c) persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by [5]notification in

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1 For Statement of Objects and Reasons, see Gazette of India, 1910, Pt. V, p. 140; for Report of Select Committee, see ibid, 1911, Pt V, p 39; and for Proceedings in Council, see ibid, 1910, Pt VI, p 16, dated 13th August, 1910, and ibid, 1911, Pt. VI, pp. 34, 46 and 362

This Act has been declared in force in British Baluchistan, by the British Baluchistan Laws Regulations, 1913 (II of 1913), see Baluchistan Code; in the Angul District, by the Angul Laws Regulation, 1913 (III of 1913), s. 3; B. & O. Code, Vol. I; in the Sonthal Parganas, by Notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), B. & O Code, Vol. I, p. 806.

2 The word "Native" was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

3 For the expressions "native" and "a native" wherever they occur in this Act, the expressions "Indian" and "an Indian" were substituted respectively by s. 2 of ibid.

4 The 1st January, 1912, see General Statutory Rules and Orders, Vol. IV, p. 120.

5 For places declared to be frontier posts under this sub-section and section 22, see ibid.

this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces :

[1]* * * * * * * *

(2) Every person subject to this Act under sub-section (*1*), clause (*a*) or (*b*), shall remain so subject until duly discharged or dismissed.

Special provision as to rank in certain cases.

3. (*1*) The Governor General in Council may, by [2]notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (*1*), clause (*c*), shall be so subject as [3][Indian] officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

Commanding officer of persons subject to military law under section 2, clause (c).

4. Every person subject to this Act under section 2, sub-section (*1*), clause (*c*), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

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[1] The proviso to sub-section (*1*) of s. 2 was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] For notification declaring the rank of certain Civil officers when subject to the Act, *see* General Statutory Rules and Orders, Vol. IV, p. 121.

[3] *See* footnote under s. 2 (*1*) (*a*), *supra*.

(*Chapter I.—Preliminary.*)

Powers to apply Act to certain forces under the Government of India.

5. (*1*) The Governor General in Council may, by notification,[1] apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the Governor General in Council.

(*2*) While any of the provisions of this Act apply to any such force, the Governor General in Council may, by notification,[2] direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

Officers to exercise powers in certain cases.

6. [3][(*1*) Whenever persons subject to this Act are serving—

(*a*) out of India under an officer not subject to the authority of the Governor General in Council, or

(*b*) in India under an officer commanding any military organization not in this section specifically named, and being, in the opinion of the Governor General in Council, not less than a brigade,

the Governor General in Council may prescribe the officer[4] by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.]

(*2*) The Governor General in Council may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

Definitions.

Definitions.

7. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "British officer" means a person holding a commission in His Majesty's land forces, [5][and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Air Force];

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1 For such Notification, *see* General Statutory Rules and Orders, Vol. IV, p. 123.

2 For such Notification, *see ibid*, p. 124.

3 This sub-section was substituted by s. 3 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

4 For such officers, *see* General Statutory Rules and Orders, Vol. IV, p. 125.

5 These words were added by s. 2 of the Indian Army (Amendment) Act, 1923 (33 1923).

(*Chapter I.—Preliminary.*)

(*2*) " [1][Indian] officer " means a person commissioned, gazetted or in pay as an officer holding [1][an Indian] rank in His Majesty's Indian Forces;

(*3*) " warrant officer " means a person appointed, gazetted or in pay as [1][an Indian] warrant officer in His Majesty's Indian Forces:

(*4*) " non-commissioned officer " means a person attested under this Act holding [1][an Indian] non-commissioned rank in His Majesty's Indian Forces, and includes an acting non-commissioned officer:

(*5*) " officer " means a British officer or [1][Indian] officer, but does not include a warrant officer or non-commissioned officer:

(*6*) " commanding officer," when used in any provision of this Act with reference to any separate portion of His Majesty's forces or to any department, means the British officer whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision:

(*7*) " superior officer," when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer; and, as regards persons placed under his orders, a warrant officer or non-commissioned officer subject to the [2]Army Act [3][or the Air Force Act]: 44 & 45 Vict.. c. 58.

[4][(*8*) 'army,' 'army corps,' 'division,' and 'brigade' mean respectively an army, army corps, division or brigade which is under the command of an officer subject to the authority of the Governor General in Council or, when on active service, an army, army corps, division or brigade under the command of an officer holding a commission in His Majesty's Land Forces:]

(*9*) " corps " means any separate body of persons subject to this Act or the Army Act which is prescribed as a corps for the purposes of all or any of the provisions of this Act:

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1 *See* footnote 3 on p. 123, *supra*.
2 Collection of Statutes, India, Vol I
3 These words were added by s. 2 of the Indian Army (Amendment) Act, 1923 (33 of 1923).
4 This clause was substituted by s. 4 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

(10) "independent brigade" means a brigade which does not form part of a division :

(11) "department" includes any division or branch of a department :

(12) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to military law to act :

(13) "active service," as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(14) "military custody" means the arrest or confinement of a person according to the usages of the service :

(15) "military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward :

(16) "court-martial" means a court-martial held under this Act :

(17) "criminal court" means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor General in Council :

(18) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court :

(19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined :

(20) "notification" means a notification published in the Gazette of India :

(21) "prescribed" means prescribed by rules made under this Act : and

(22) all words and expressions used herein and defined in the Indian Penal Code[1] and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

XLV of 1860.

[1] See the revised edition of the Code, as modified up to 1st February, 1922.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

Procedure before enrolling officer. **8.** Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Enrolment. **9.** If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign [1][and shall also cause the person to sign] the enrolment paper, and the person shall then be deemed to be enrolled.

Presumption of enrolment in certain cases. **10.** Every person who has for the space of six months been in the receipt of military pay and been borne on the rolls of any corps or department [2]* * * * shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Attestation.

Persons to be attested. **11.** The following persons shall be attested, namely:—

(*a*) all persons enrolled as combatants;

(*b*) all other enrolled persons prescribed by the Governor General in Council.

Mode of attestation. **12.** (*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his

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1 These words were inserted by s. 5 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

2 The words "of which the last-pay statement, if produced, shall be evidence" were repealed by s. 26 and Schedule of *ibid.*

commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, His heirs and successors, and that he will serve in His Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

Dismissal by Governor General in Council and Commander-in-Chief in India.

13. The Governor General in Council or the Commander-in-Chief in India may dismiss from the service any person subject to this Act.

Dismissal by officer commanding army, division, brigade, etc.

14. An officer commanding an army, [1][army corps], division or brigade, or any prescribed officer, may dismiss from the service any person serving under his command other than [2][an Indian] officer.

15. [*Dismissal of convicts.*] *Rep. by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).*

Discharge.

16. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

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1 These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

2 *See* footnote 3 on p. 123, *supra*.

Certificate to person dismissed or discharged.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person (when his mother tongue is not English), setting forth—

(*a*) the authority dismissing or discharging him;

(*b*) the cause of his dismissal or discharge;

(*c*) the full period of his service in the army.

Discharge, etc., out of India.

18. (*1*) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed:

[1][Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.]

[2]* * * * * *

CHAPTER IV.

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

Reduction of non-commissioned officers.

19. (*1*) The Commander-in-Chief in India, an officer commanding an army, [3][army corps], division or brigade, or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command.

[1] This proviso was added by s. 7 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] Sub-section (*3*) was repealed by s. 26 and Schedule of *ibid.*

[3] These words were inserted by s. 6 of *ibid.*

(*Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial.*)

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

Minor punishments.

20. (1) The Commander-in-Chief in India may, subject to the control of the Governor General in Council, specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

(2) [1][Imprisonment in military custody and in the case of persons subject to this Act on active service any prescribed field punishment may be specified as minor punishments], provided that—

(*a*) the term of such imprisonment [2][or field punishment] shall not exceed twenty-eight days; and

(*b*) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

Collective fines.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, [3][army corps], division or independent brigade to which such unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the [4][Indian] officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Punishment of certain Indian followers.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any [5]frontier post specified by the Governor General in Council by notification in this behalf at which troops are stationed, may

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[1] These words were substituted for the words "Imprisonment in military custody may be specified as such a minor punishment", by s. 2 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

[2] These words were inserted by *ibid.*

[3] These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[4] *See* footnote 3 on p. 123, *supra.*

[5] **For places so declared, *see* Genl. R. & O., Vol. IV, p. 120.**

punish any [1][Indian] follower of such corps or detachment who is subject to this Act under section 2, sub-section (*1*), clause (*c*)—

(*a*) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees:

(*b*) if such follower is a menial servant, with imprisonment for a term which may extend to seven days, or, if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

(*2*) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant, under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost Marshals.

Appointment.

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Commander-in-Chief in India or an officer commanding an army, [2][army corps], division or independent brigade or an officer commanding the forces in the field; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

Duties and powers.

24. (*1*) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. [3][He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.]

[1] *See* footnote 3 on p. 123, *supra*.

[2] These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[3] These words were added by s. 3 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

[1][(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1), clause (b), any follower who is subject to this Act under section 2, sub-section (1), clause (c) and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline.]

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

25. Any person subject to this Act who commits any of the following offences, that is to say,— Offences punishable with death.

(a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or

(b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice; or

(c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer; or

(d) treacherously makes known the watchword to any person not entitled to receive it; or

(e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State; or

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[1] This sub-section was substituted for original sub-sections (2) and (3) by s. 3 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

(*Chapter V.—Offences.*)

(*f*) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

(*g*) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*h*) in time of action, leaves his commanding officer or his post or party to go in search of plunder; or

(*i*) in time of war, quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind; [1][or

(*k*) on active service commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving];

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not punishable with death.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) strikes, or forces or attempts to force, any sentry; or

(*b*) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment; or

(*c*) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or

[1] The word "or" and clause (*k*) were added by s. 8 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

(*Chapter V.—Offences.*)

(*d*) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

27. Any person subject to this Act who commits any of the following offences, that is to say,— **Offences punishable with death.**

(*a*) begins, excites, causes, [1][or conspires with any other persons to cause] or joins in any mutiny; or

(*b*) being present at any mutiny, does not use his utmost endeavours to suppress the same; or

(*c*) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or

(*d*) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(*e*) disobeys the lawful command of his superior officer;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

28. Any person subject to this Act who commits any of the following offences, that is to say— **Offences not punishable with death.**

(*a*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*b*) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(*c*) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his

[1] These words were inserted by s. 9 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

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duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Desertion, Fraudulent Enrolment and Absence without Leave.

Desertion.

29. Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Harbouring deserter, absence without leave, etc.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended; or

(*b*) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person; or

(*c*) without having first obtained a regular discharge from the corps or department to which he belongs, enrols himself in the same or any other corps or department; or

(*d*) absents himself without leave or without sufficient cause overstays leave granted to him; or

(*e*) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or

(*f*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*g*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march; or

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(*h*) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave; or

(*i*) without proper authority is found two miles or upwards from camp; or

(*j*) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Disgraceful Conduct.

31. Any person subject to this Act who commits any of the following offences, that is to say,— **Disgraceful conduct.**

(*a*) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to him; or

(*b*) dishonestly receives or retains any property in respect of which an offence under clause (*a*) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or

(*c*) wilfully destroys or injures any property of Government entrusted to him; or

(*d*) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or

(*e*) dishonestly receives or retains any such property as is specified in clause (*d*) knowing or having reason to believe it to be stolen; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person; or

(*g*) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*h*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(*i*) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication

Intoxication. **32.** Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

Offences punishable with death. **33.** Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not punishable with death. **34.** Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge; or

(*b*) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape; or

(*c*) being in military custody, leaves such custody before he is set at liberty by proper authority;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

(Chapter V.—Offences.)

Offences in relation to Property.

35. Any person subject to this Act who commits any of the following offences, that is to say,— **Offences in relation to property.**

(*a*) commits extortion, or without proper authority exacts from any person, carriage, porterage or provisions; or

(*b*) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property; or

(*c*) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service; or

(*d*) makes away with, or is concerned in making away with, his arms, ammunition, equipments, instruments, tools, clothing or regimental necessaries; or

(*e*) loses by neglect anything mentioned in clause (*d*); or

(*f*) wilfully injures anything mentioned in clause (*d*) or any property belonging to Government, or to any military mess, band or institution, or to any person subject to military law, or serving with, or attached to the army; or

(*g*) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to False Documents and Statements.

36. Any person subject to this Act who commits any of the following offences, that is to say,— **False accusations and offences in relation to documents.**

(*a*) makes a false accusation against any person subject to military law, knowing such accusation to be false; or

(*b*) in making any complaint under section 117, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact; or

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(*c*) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement; or

(*d*) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

False answers on enrolment.

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Courts-martial.

Offences in relation to courts-martial.

38. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up; or

(b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting; or

(c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

Miscellaneous military offences.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being an officer or warrant officer, behaves in a manner unbecoming his position and character; or

(b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position; or

(c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or

(e) attempts to commit suicide and does any act towards the commission of such offence; or

(f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from any town or bázár, carrying a sword, bludgeon or other offensive weapon; or

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(*g*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*h*) neglects to obey any general or garrison or other orders; or

(*i*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Attempts.

[1][**39A.** Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence.]

Abetment.

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence.

Civil Offences.

Civil offences committed outside British India or on active service in British India.

41. Every person subject to this Act who at any place beyond British India, or when on active service in British India, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say:—

(*a*) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment [2][other than whipping] assigned for the offence by the law of British India; and

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1 This section was inserted by s. 10 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

2 These words were inserted by s. 4 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

(*b*) in other cases, he shall be liable to suffer any punishment [1][other than whipping] assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline.

Certain civil offences triable by military law.

42. Every person subject to this Act who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Indian Penal Code,[2] or any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence, shall, subject to the provisions of this Act, be liable to be tried by court-martial, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

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CHAPTER VI.

PUNISHMENTS.

Punishments.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say :—

(*a*) death ;

(*b*) transportation for life or for any period not less than seven years ;

(*c*) imprisonment [3][either rigorous or simple] for any term not exceeding fourteen years ;

(*d*) dismissal from the service ;

(*e*) in the case of officers and warrant officers, suspension from rank, pay and allowances for [4][a period not exceeding two months] ;

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[1] These words were inserted by s. 4 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

[2] *See* the revised edition of the Code, as modified up to the 1st February, 1922.

[3] These words were substituted for the words and brackets "(with or without solitary confinement)" by s. 11 (*1*) of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[4] These words were substituted for the words "any stated period" by s. 11 (*2*) of *ibid.*

(*Chapter VI.—Punishments.*)

(*f*) reduction, in the case of a warrant officer, to a lower grade or class (if any) of warrant officer, or in the case of a non-commissioned officer, to a lower grade or to the ranks;

(*g*) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;

[1][(*gg*) in the case of officers, reprimand or severe reprimand];

(*h*) forfeitures and stoppages as follows, namely:—

(i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;

(ii) forfeiture of any military decoration or military reward;

(iii) forfeiture, in the case of a person sentenced to dismissal from the service [2] * * * * of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;

[3][(v) on active service forfeiture of pay and allowances for a period not exceeding three months.]

Lower punishments.

44. Where in respect of any offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

Field punishment.

[4][**45.** Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be

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[1] This clause was inserted by s. 11 (3) of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] The words "or whose sentence involves such dismissal" were repealed by s. 26 and Schedule of *ibid*.

[3] This sub-clause was added by s. 11 (4) of *ibid*.

[4] This section was substituted by s. 5 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

lawful for a court-martial to award for that offence any such punishment, other than flogging as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.]

46. [1][Field punishment] shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal. **Position of corporal punishment in scale.**

47. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (*d*), (*f*), [2][(*gg*)] and (*h*) of section 43. **Combination of punishments.**

48. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say,— **Solitary confinement.**

(*a*) a time not exceeding one month if the term of imprisonment does not exceed six months;

(*b*) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year;

(*c*) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by court-martial to transportation, imprisonment, [3][field punishment] or dismissal from the service, shall be deemed to be reduced to the ranks. **Reduction of non-commissioned officers to ranks.**

[4][**49A.** When any person on active service has been sentenced by court-martial to dismissal or to transportation or imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment.] **Retention in the ranks of a person convicted on active service.**

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1 These words were substituted for the words "Corporal punishment" by s. 6 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

2 The brackets and letters "(*gg*)" were inserted by s. 12 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

3 These words were substituted for the words "corporal punishment" by s. 6 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

4 This section was added by s. 13 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

CHAPTER VII.

PENAL DEDUCTIONS.

Deductions from pay and allowances.

50. The following penal deductions may be made from the pay and allowances of a person subject to this Act, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20 [1][or of field punishment awarded by a court-martial or such officer];

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment [2][or field punishment] by an officer exercising authority under section 20;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the [3]* medical officer attending on him * *[4] to have been caused by an offence under this Act committed by him;

[5][(*cc*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-Chief in India];

(*d*) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 43;

(*e*) any sum ordered by a court-martial to be stopped under section 43;

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1 These words were added by s. 7 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

2 These words were inserted by *ibid.*

3 The word "proper" was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

4 The words "at the hospital" were repealed by *ibid.*

5 This clause was inserted by s. 14 of *ibid.*

(*f*) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer;

(*g*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21:

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (*e*) to (*g*), both inclusive, shall not (except in the case of a person sentenced to dismissal [1]* * * *) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (*a*) and (*b*)—

(i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day;

(ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody; and

(iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension. **Deductions from public money other than pay.**

1 The words "or whose sentence involves dismissal" were repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

Remission of deductions.

52. Any deduction from pay and allowances authorized by this Act may be remitted in such manner, [and to such extent][1] and by such authority as may from time to time be prescribed.

Provision for dependants of prisoners of war.

[2][**52A.** (*1*) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(*2*) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.]

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

Courts-martial and the kinds thereof.

53. For the purposes of this Act there shall be four kinds of courts-martial, that is to say :—

(1) general courts-martial;

(2) district courts-martial;

(3) summary general courts-martial; and

(4) summary courts-martial.

Power to convene general courts-martial.

54. A general court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

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[1] These words were inserted by s. 2 of the Indian Army (Amendment) Act, 1917 (10 of 1917).

[2] This section was inserted by s. 3 of *ibid.*

(*Chapter VIII.—Courts-martial*)

Power to convene district courts-martial.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Contents of warrant issued under section 54 or section 55.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Composition of general courts-martial.

57. A general court-martial shall consist of not less than seven officers unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.

Composition of district courts-martial.

58. A district court-martial shall consist of not less than three officers.

Convening order to state if larger number of officers is not available

59. Whenever a general court-martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available, and such statement shall be conclusive evidence of the fact so stated.

Composition of general or district courts-martial.

60. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, either be British or [1][Indian] officers, but shall not be partly British and partly [1][Indian] officers.

Claim to trial by British officers.

61. (*1*) Any person subject to this Act who is under orders for trial by general or district court-martial may claim to be tried by British officers.

(*2*) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

Convening of summary general courts-martial.

62. The following authorities shall have power to convene a summary general court-martial, namely :—

(*a*) an officer empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India ;

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[1] *See* footnote 3 on p. 123 *supra*.

(b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composition of summary general courts-martial.

63. A summary general court-martial shall consist of not less than three officers.

Summary courts-martial.

64. (1) A summary court-martial may be held—

(a) by the commanding officer of any corps or department of His Majesty's Indian Forces, or of any detachment of those forces;

(b) by the commanding officer of any British corps or detachment to which details subject to this Act are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

Dissolution of courts.

65. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved:

Provided that a general court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-martial.

Prohibition of second trial.

66. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections.

(*Chapter VIII.—Courts-martial.*)

[1][67. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enrolment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces. **Limitation of trial.**

Explanation.—For the purposes of this section, 'mutiny' means any of the offences specified in clauses (*a*), (*b*) and (*c*) of section 27.]

68. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever. **Place of trial.**

Adjustment of the jurisdiction of Courts-martial and Criminal Courts.

69. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody. **Order in case of concurrent jurisdiction.**

70. (*1*) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor General in Council. **Power of criminal court to require delivery of offender.**

(*2*) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.

[1] This section, which was originally substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1919 (18 of 1919), was substituted by s. 8 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

(Chapter VIII.—Courts-martial.)

Trial by court-martial no bar to subsequent trial by criminal court.

71. (1) Notwithstanding anything contained in section 26 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts. X of 1897. V of 1898.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

Powers of Courts-martial.

Powers of general and summary general courts-martial.

72. A general or summary general court-martial shall have power to try any person subject to this Act for any offence made punishable therein and to pass any sentence authorized by this Act.

Powers of district court-martial.

73. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years.

Offences triable by summary court-martial.

74. A summary court-martial may try any offence punishable under any of the provisions of this Act :

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial [1][or on active service a summary general court-martial] for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33, 41 or 42, or

(b) any offence against the officer holding the court.

Persons triable by summary court-martial.

75. A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer.

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[1] These words were inserted by s. 15 of the Indian Army (Amendment) Act, 1918 (12 of 1918).

(Chapter VIII.—Courts-martial.)

76. (1) A summary court-martial [1] may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year. Sentences awardable by summary court-martial.

[2] * * * *

Procedure at Trials by Court-martial.

77. At every general, district or summary general court-martial the senior member shall sit as president. President.

78. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a person appointed by the convening officer. Judge Advocate.

79. A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of [3][Indian] officers which is not attended by a judge advocate. Superintending officer.

80. (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court. Challenges.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

[1] The words "held by the commanding officer of a corps or department" were repealed by s. 4 of the Indian Army (Amendment) Act, 1917 (10 of 1917).

[2] Sub-section (2) of s. 76 was repealed by *ibid.*

[3] *See* footnote 3 on p. 123, *supra.*

(*Chapter VIII.—Courts-martial.*)

(*4*) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Voting of members.

81. (*1*) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused.

(*2*) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

Oaths of president and members.

82. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate or superintending officer before the commencement of the trial.

Oaths of witnesses.

83. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

Summoning witnesses and production of documents.

84. (*1*) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(*2*) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(*5*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, **I of 1872.** postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

85. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued. **Commissions.**

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any prince or chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(4) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal
V of 1898. Procedure, 1898.

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the

commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

(*6*) When the witness resides out of India, the commission may be issued to any British consular officer, British Magistrate or other British official competent to administer an oath or affirmation in the place where such witness resides.

(*7*) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories

(*8*) The prosecutor and the accused person may appear before such Magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross examine and re-examine (as the case may be) the said witness.

(*9*) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(*10*) On receipt of a commission and deposition returned under sub-section (*9*), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person: and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(*11*) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression "Judge Advocate General" means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

86. (*1*) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave. **Conviction of one offence permissible on charge of another.**

(*2*) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(*3*) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(*4*) A person charged before a court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898, were applicable. **V of 1898.**

(*5*) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

[1][(*6*) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.]

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court. **Majority requisite to sentence of death.**

Evidence before Courts-martial.

I of 1872. **88.** The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a court-martial. **General rule as to evidence.**

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1 This sub-section was added by s. 16 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

Judicial notice.

89. A court-martial may take judicial notice of any matter within the general military knowledge of the members.

Presumption as to signatures.

90. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown

Enrolment paper.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given [1][The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.]

Presumption as to certain documents.

[2][**91A.** (*1*) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) An Army List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(*3*) Where a record is made in any regimental book, in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

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[1] These words were substituted for the words "and of the enrolment of such person" by s. 17 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] This section was inserted by s. 18 of *ibid.*

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.]

[1][(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.]

Reference by accused to Government officer.

92. (1) If at any trial for desertion, absence without leave, over-staying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court

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1 This sub-section was added by s. 3 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

Evidence of previous convictions and general character.

93 (1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court martial books or other official records; and it shall not be necessary [1] * * * to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

Finding and sentence invalid without confirmation.

94. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Power to confirm finding and sentence of general court-martial.

95. The findings and sentences of general courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

Power to confirm finding and sentence of district court-martial.

96. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

1 The words, "to prove the signature to such certified extracts, nor shall it be necessary" were repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

(*Chapter VIII.—Courts-martial.*)

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 95 or section 96.

98. (*1*) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer [1][or if the convening officer so directs. by an authority superior to the convening officer]—

Confirmation of finding and sentence.

(*a*) in the case of the trial of an officer,

(*b*) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and

(*c*) in any other case if so ordered by the [2][convening] officer.

(*2*) Save as provided in sub-section (*1*), a sentence passed by a summary general court-martial shall not require to be confirmed, but may be carried out forthwith

99. Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial :

Power of confirming officer to mitigate, remit or commute sentences.

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

[3][**99A.** When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.]

Confirmation of finding and sentence on board ship.

100. (*1*) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

1 These words were inserted by s. 19 (*1*) of the Indian Army (Amendment) Act, 1918 (11 of 1918).

2 This word was substituted for the word "said" by s. 19 (*2*) of *ibid.*

3 This section was inserted by s. 20 of *ibid.*

(*Chapter VIII.—Courts-martial.*)

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or if a district court-martial, of three officers.

Finding and sentence of a summary court-martial.

101. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith :

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

Transmission of proceedings of summary courts-martial.

102. The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer ; and such officer, or the Commander-in-Chief in India, or the officer commanding the army, [1][or army corps,] in which the trial was held, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

Substitution of valid for invalid sentence.

103. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence :

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

Provision in the case of accused being lunatic.

[2][**103A.** (*1*) Whenever, in the course of a trial by court-martial, it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person

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[1] These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] This section was inserted by s. 4 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

(*2*) A confirming officer to whom a case is reported under sub-section (*1*) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(*3*) A prescribed officer to whom a case is reported under sub-section (*1*) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council.

(*4*) On receipt of a report under sub-section (*3*), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(*5*) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(*a*) if such person is in custody under sub-section (*3*), on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained under-sub-section (*4*), on a certificate such as is referred to in section 473 of the Code of Criminal

V of 1898. Procedure, 1898,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(*6*) A copy of every order made by the prescribed officer under sub-section (*5*) shall forthwith be sent to the Governor General in Council.]

(Chapter IX.—Execution of Sentences.)

CHAPTER IX.

EXECUTION OF SENTENCES.

Form of sentence of death.

104. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Imprisonment to be in military custody.

105. Whenever any person is sentenced under this Act to simple imprisonment, such sentence shall be carried out by confinement in military custody.

Commencement of sentence of transportation or imprisonment.

106. Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

Execution of sentence of transportation or imprisonment.

107. Whenever any sentence of transportation or rigorous imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant:

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody:

[1][Provided further that on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint.]

Execution of sentence of imprisonment in special cases.

108. Whenever, in the opinion of an officer commanding an army, [2][army corps], division or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently

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[1] This proviso was added by s. 21 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] These words were inserted by s. 6 of *ibid.*

(*Chapter IX.—Execution of Sentences.*)

be carried out in accordance with the provisions of section 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

[1][**108A.** In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.] **Offenders sentenced to transportation how dealt with until transported.**

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined. **Communication of certain orders to civil prison officers.**

110. In executing a sentence of solitary confinement such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. **Limit of solitary confinement.**

111. (*Instrument of corporal punishment.*) *Repealed by the Indian Army (Amendment) Act, 1920 (37 of 1920).*

[2][**111A.** When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.] **Execution of sentence of fine.** **V of 1898.**

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1 This section was inserted by s. 22 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

2 This section was added by s. 23 of *ibid.*

CHAPTER X.

PARDONS AND REMISSIONS.

Pardons and remissions.

[1][**112.** (*1*) When any person subject to this Act has been convicted by a court-martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer may,

(*a*) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded;

(*b*) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

(*2*) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(*3*) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.]

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1 This section was substituted by s. 24 of the Indian Army (Amendment) Act, 1918 (11 of 1918).

CHAPTER XI.

RULES.

113. (*1*) The Governor General in Council may make [1]rules for the purpose of carrying into effect the provisions of this Act. **Power to make rules**

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the discharge from the service of persons subject to this Act;

(*b*) the amount and incidence of fines to be imposed under section 21;

[2][(*bb*) the specification of the punishments which may be awarded as field punishments under sections 20 and 45;]

(*c*) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;

(*d*) the convening and constituting of courts-martial;

(*e*) the adjournment, dissolution and sittings of courts-martial;

(*f*) the procedure to be observed in trials by courts-martial;

(*g*) the confirmation and revision of the findings and sentences of courts-martial;

(*h*) the carrying into effect sentences of courts-martial;

(*i*) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation or imprisonment; and

[3][(*ii*) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions];

(*j*) any matter in this Act directed to be prescribed.

(*3*) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

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[1] For Ruels under the Act, *see* General Statutory Rules and Orders, Vol. IV, p. 127.

[2] This clause was inserted by s. 9 of the Indian Army (Amendment) Act, 1920 (37 of 1920).

[3] This clause was inserted by s. 6 of the Indian Army (Amendment) Act, 1917 (10 of 1917).

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

Property of deceased persons and deserters.

[1][**114.** The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

(*1*) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(*2*) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(*3*) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (*1*) and (*2*) to that representative.

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (*1*) and from the amount of the deposit (if any) received under clause (*2*).

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1 This section was substituted by s. 2 of the Indian Army (Amendment) Act, 1914 (15 of 1914).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.] **Meaning of desertion.**

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made. **Disposal of certain property without production of probate, etc.**

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane, [1][or, who, being on active service, is officially reported missing: **Application of section 114 to lunatics.**

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (2) to (5), inclusive, of the said section, until one year has elapsed from the date of such report.]

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1 These words were added by s. 2 of the Indian Army (Amendment) Act, 1920 (2 of 1920).

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

Complaints against officers.

117. (*1*) Any person subject to this Act who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved person may complain to such officer's next superior officer.

(*3*) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

(*4*) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

Privileges of persons attending courts-martial.

118. (*1*) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

Exemption from arrest for debt.

119. (*1*) No person subject to this Act shall, so long as he belongs to His Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(*2*) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*Chapter XIII.—Miscellaneous.*)

(3) For the recovery of such costs no fee shall be payable to the court by the complainant

Property exempted from attachment.

120. Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Application of the last two foregoing sections to reservists.

121. Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

Priority of hearing by courts of cases in which Indian officers and soldiers are concerned.

122. (*1*) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(*3*) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(*4*) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(*Chapter XIII.—Miscellaneous.*)

(*5*) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

Deserters and Military Offenders.

Capture of Deserters.

123. (*1*) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to military custody.

(*2*) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

Arrest by military authorities.

124. (*1*) Any person subject to this Act who is charged with an offence may be taken into military custody.

(*2*) Any such person may be ordered into military custody by any superior officer.

(*3*) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

Arrest by civil authorities.

125. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

(*Chapter XIII.—Miscellaneous.*)

126. (*1*) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration. **Inquiry on absence of person subject to Act.**

(*2*) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

[1] * * * * * *

Disposal of Property.

[2]**126A.** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. **Order for custody and disposal of property pending trial in certain cases.**

[2]**126B.** (*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit **Order for disposal of property regarding which offence committed.**

[1] Sub-section (*3*) of s. 126 was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (11 of 1918).

[2] Sections 126A and 126B were inserted by s. 25 of *ibid.*

for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

Repeal.

127. [*Repeal.*] *Repealed by s. 2 and Schedule of the Repealing Act, 1927 (12 of 1927).*

[THE SCHEDULE.]

[*Repeal of Enactments.*] *Repealed by s. 2 and Schedule of the Repealing Act, 1927 (12 of 1927).*

ACT No. IX OF 1911.[1]

[*16th March, 1911.*]

An Act further to amend the Births, Deaths and Marriages Registration Act, 1886.

VI of 1886. WHEREAS it is expedient further to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Births, Deaths and Marriages Registration (Amendment) Act, 1911.

Amendment of section 22 of Act VI of 1886. **2.** In section 22 of the Births, Deaths and Marriages Registration Act, 1886, the following amendments shall be made, namely:—

(*1*) To sub-section (*1*) of the said section the following proviso shall be added, namely:—

"Provided that it shall not be necessary for the person giving notice to attend before the Registrar or to sign the entry in the register, if he has given such notice in writing and has furnished to the satisfaction of the Registrar such evidence of his identity as may be required by any rules made by the Local Government in this behalf."

(*2*) In sub-section (*2*) of the said section, after the word "signed" the words "or the conditions specified in the proviso to sub-section (*1*) have been complied with" shall be inserted.

Amendment of sections 26 and 28. **3.** In section 26 and in section 28 of the said Act, for the words "Governor General in Council" the words "Local Government" shall be substituted.

Substitution of new section 36. **4.** For section 36 of the said Act the following section shall be substituted, namely:—

Rules. "36. (*1*) The Local Government may make rules to carry out the purposes of this Act;

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the fees payable under this Act;

(*b*) prescribe the forms required for the purposes of this Act;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 86; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp. 185 and 362.

(*c*) prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;

(*d*) prescribe the evidence of identity to be furnished to a Registrar of Births and Deaths by persons giving notice of a birth or death in cases where personal attendance before such Registrar is dispensed with;

(*e*) prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them;

(*f*) prescribe the conditions and circumstances on and in which Registrars of Births and Deaths may correct entries of births and deaths in registers kept by them;

(*g*) prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate; and

(*h*) prescribe the custody in which those registers or records are to be kept.

(*3*) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act."

Repeal of section 37.

5. Section 37 of the said Act is hereby repealed.

Continuation of rules heretofore made by Governor General in Council.

6. All rules heretofore made under the said Act by the Governor General in Council shall, after the commencement of this Act, be deemed to have been made by the Local Government.

ACT No. X OF 1911.[1]

[*22nd March, 1911.*]

An Act to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity.

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prevention of Seditious Meetings Act, 1911.

(*2*) It extends to the whole of British India, but shall have operation only in such Provinces or parts of Provinces as the Governor General in Council may from time to time notify in the Gazette of India.

Power of Local Government to notify proclaimed areas.

2. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare the whole or any part of a Province, in which this Act is for the time being in operation, to be a proclaimed area.

(*2*) A notification made under sub-section (*1*) shall not remain in force for more than six months, but nothing in this sub-section shall be deemed to prevent the Local Government, with the previous sanction of the Governor General in Council, from making any further notifications in respect of the same area from time to time as it may think fit.

Definition.

3. (*1*) In this Act, the expression "public meeting" means a meeting which is open to the public or any class or portion of the public.

(*2*) A meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise.

Notice to be given of public meetings.

4. (*1*) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or for the exhibition or distribution of any writing or printed matter relating to any such subject, shall be held in any proclaimed area—

(*a*) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 100; for Report of Select Committee, *see ibid*, 1911, Pt. V, p. 100; and for Proceedings in Council, *see, ibid*, 1911, Pt. VI, pp. 362 and 452.

District Magistrate or the Commissioner of Police, as the case may be, at least three days previously; or

(*b*) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

Power of Magistrate to cause report to be taken.

(*2*) The District Magistrate or any Magistrate of the first class authorized by the District Magistrate in this behalf may, by order in writing, depute one or more Police-officers, not being below the rank of head constable, or other persons, to attend any such meeting for the purpose of causing a report to be taken of the proceedings.

Exception.

(*3*) Nothing in this section shall apply to any public meeting held under any statutory or other express legal authority, or to public meetings convened by a sheriff, or to any public meetings or class of public meetings exempted for that purpose by the Local Government by general or special order.

Power to prohibit public meetings.

5. The District Magistrate or the Commissioner of Police, as the case may be, may at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area, if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity.

Penalties.

6. (*1*) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(*2*) Any public meeting which has been prohibited under section 5 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898. **XLV of 1860. V of 1898.**

Penalty for delivery of speeches in public places.

7. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted from, the provisions of section 4, without the permission in writing of the Magistrate of the District or of the Commissioner of Police, as the case may be, previously obtained, delivers any lecture, address or speech on any subject likely to cause disturbance or public excitement to persons then present, may be arrested without warrant, and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

8. No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class or Sub-divisional Magistrate shall try any offence against this Act. Cognizance of offences.

9. [*Repeals.*] *Repealed by s. 2 and Schedule of the Repealing Act, 1927 (12 of 1927).*

ACT No. XI OF 1911.[1]

[*23rd March, 1911.*]

An Act to amend the Indian Universities Act, 1904.

VIII of 1904.

WHEREAS it is expedient to amend the Indian Universities Act, 1904; It is hereby enacted as follows:—

1. This Act may be called the Indian Universities (Amendment) Act, 1911. Short title.

2. To section 6, sub-section (*2*), of the said Act, the following proviso shall be added, namely:— Amendment of section 6, Act VIII of 1904.

"Provided that, in the case of the University of Allahabad, the Chancellor may direct that such number as he may specify of the ordinary fellows referred to in clause (*a*) shall be elected by the Senate, and the remainder by registered Graduates."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 87 and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp 185 and 501.

THE INDIAN FACTORIES ACT, 1911.

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ACT No. XII OF 1911.[1]

[*24th March, 1911.*]

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, commencement and extent.

1. (*1*) This Act may be called the Indian Factories Act, 1911.

(*2*) It shall come into force on the first day of July 1912; and

(*3*) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"Child."

(*1*) "child" means a person who is under the age of [2][fifteen] years :

"Employed."

(*2*) a person who works in a factory, whether for wages or not,—

(*a*) in a manufacturing process or handicraft, or

(*b*) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(*c*) in cleaning or oiling any part of the machinery, or

(*d*) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process of handicraft therein,

shall be deemed to be employed therein :

[3]* * * * *

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1909, Pt. V, p. 61; for Report of Select Committee, *see ibid*, 1911, Pt. V, p. 63; and for Proceedings in Council, *see ibid*, 1909, Pt. VI, p. 141, and *ibid*, 1911, Pt. VI, pp. 13, 103, 183 and 501.

[2] This word was substituted for the word "fourteen" by s. 2 (*a*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[3] The explanation to cl. (*2*) of s. 2 was omitted by s. 2 (*a*) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

[1][(3) "factory" means— "Factory."

(a) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any [2][manufacturing process]; or

(b) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any [3][manufacturing process] is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory;

A declaration under clause (b) may be made in respect of any class of premises, or in respect of any particular premises]:

[4][(4) 'manufacturing process' means any process for or incidental to, "Manufacturing process."

(a) making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article, or part of an article, or

(b) refining oil or pumping or filtering water, or

(c) supplying, generating or transforming pneumatic, hydraulic or electrical energy,

and includes the baling of any material for transport:]

(5) "mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley, rope, chain, wire, driving strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process: "Mill-gearing."

(6) "occupier" includes a managing agent or other person authorised to represent the occupier: "Occupier."

1 This clause was substituted for the original clause (3) by s. 2 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 These words were substituted for the words "process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article;" by s. 2 (b) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

3 These words were substituted for the words "such process" by ibid

4 Original cl. (4) was repealed by s. 33 and Sch. II of Act II of 1922 and new cl. (4) was inserted by s. 2 (c) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

"Prescribed." (*7*) "prescribed" means prescribed by this Act or by rules made thereunder :

"Week." [1][(*8*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.]

Application of Act. [2][**3.** Nothing in this Act shall apply to any mine subject to the operation of the Indian Mines Act, [3][1923.]] **IV of 1923.**

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

Inspectors. **4.** (*1*) The Local Government may, by notification in the local official Gazette, appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively.

(*2*) No person shall be appointed to be an inspector under sub-section (*1*), or having been so appointed. shall continue to hold the office of inspector, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(*3*) The District Magistrate shall be an inspector under this Act.

(*4*) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively.

(*5*) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspector to whom the prescribed notices are to be sent.

(*6*) Every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf. **XLV of 1860.**

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1 This clause was substituted for the original clauses (*8*) and (*9*) by s. 2 (*c*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 This section was substituted for the original s. 3 by s. 3 of *ibid.*

3 These figures were substituted for the figures "1901" by s. 3 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

(Chapter II.—Inspectors and Certifying Surgeons.)

5. Subject to any rules in this behalf, an inspector may, within the local limits for which he is appointed,— **Powers of Inspector.**

(*a*) enter, with such assistants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory;

(*b*) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

6. The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively. **Certifying surgeons.**

7. (*1*) A certifying surgeon shall, at the request of any person desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person, or of the manager of the factory in which such person desires to be employed, examine such person and [1][if he is fit for employment in a factory] grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and [2][that he is fit for such employment]. **Grant of certificate.**

[3][(*2*) A certifying surgeon may revoke any certificate granted to a child under sub-section (*1*) if, in his opinion, the child is no longer fit for employment in a factory.

(*3*) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation.]

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1 These words were inserted by s. 4 (*a*) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 These words were substituted for the words "whether he is fit for employment in a factory" by s. 4 (*b*) of *ibid.*

3 These sub-sections were substituted for the original sub-section (*2*) by s. 4 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

Delegation of certifying surgeon's functions.

8. A certifying surgeon may authorize [1][any registered practitioner] to exercise the functions assigned to him by section 7, and may revoke such authority :

Provided that no certificate granted under this section shall, unless confirmed, on personal examination of the person named therein, by the certifying surgeon who conferred the authority, be valid [2][for a period of more than three months.]

[3][*Explanation.*—In this section the expression "registered practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section.] 21 & 22 Vict., c. 90.

Compulsory medical examination.

[4][**8A.** Where an inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf.]

CHAPTER III.

HEALTH AND SAFETY.

Sanitary provisions.

9. The following provisions shall apply to every factory :—

(*a*) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance;

(*b*) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein;

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1 These words were substituted for the words "any person practising medicine or surgery" by s. 5 (*a*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 These words were substituted for the words "after the first date subsequent to the grant thereof on which such certifying surgeon visits the factory in which the person named therein is employed" by s. 5 (*b*) of *ibid.*

3 This explanation was added by s. 5 (*c*) of *ibid.*

4 This section was inserted by s. 6 of *ibid.*

(*c*) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health;

[1][(*d*) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein.]

Provision as to ventilation by fans in certain factories.

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the inspector may serve on the manager of the factory an order in writing, directing that a fan or other mechanical means of a proper construction for preventing such inhalation [2][shall be provided before such date as may be specified in the order, and shall thereafter be maintained and used].

Lighting.

11. (*1*) Every factory shall be sufficiently lighted.

(*2*) In the case of any factory which is not in the opinion of the inspector so lighted, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

Purity of water used for humidifying.

12. (*1*) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity.

(*2*) In the case of any factory in which any water required under sub-section (*1*) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

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1 This clause was added by s. 7 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 These words were substituted for the words "be provided, maintained and used before a specified date" by s. 5 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

(Chapter III.—Health and Safety.)

Provision of latrines and urinal accommodation.

13. Every factory shall be provided with sufficient and suitable latrine accommodation, and if the Local Government so requires, with separate urinal accommodation for the persons employed in the factory :

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

Water supply.

14. In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory.

Doors of factory to open outwards.

15. In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

Provision of means of escape in case of fire.

16. *(1)* Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case.

(2) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

Precautions against fire.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

Fencing.

18. *(1)* *(a)* Every fly-wheel directly connected with a steam-engine, water-wheel or other mechanical power or electrical power in any part of the factory and every part of any water-wheel or engine worked by any such power,

(b) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(c) every part of the machinery [1][and electrical fittings including live wires and switches] which the Local Government may by rule require to be kept fenced,

shall be securely fenced.

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1 These words were inserted by s. 8 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

(*Chapter III.—Health and Safety.*)

(*2*) If in any factory there is any other part of the machinery or mill-gearing which may in the opinion of the inspector be dangerous if left unfenced, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(*3*) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery.

(*4*) Such provision as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

Repairs to buildings or machinery.

[1][**18A.** (*1*) If an inspector is of opinion—

(*a*) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(*b*) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(*2*) If, in the opinion of the inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing, prohibiting the use thereof until it is duly repaired or altered.]

Prohibition of employment of women and children in certain dangerous work.

[2][**19.** (*1*)] No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, [2]* * * * or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described.

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[1] This section was inserted by s. 9 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[2] Section 19 was re-numbered as sub-section (*1*) of s. 19 and the words "as the case may be" were omitted by s. 6 (*1*) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

[1][(*2*) The Local Government may, by notification in the local official Gazette, prohibit in any factory or class of factories specified in the notification the cleaning by any person of any part so specified of any mill-gearing or machinery while the same is in motion by the action of steam, water or other mechanical or electrical power.]

Power to prohibit presence of children in factories.

[2][**19A.** Where, in the opinion of the inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing, prohibiting the admission of such children to the factory or part thereof.]

Prohibition of employment of women and persons under eighteen years in certain processes.

[2][**19B.** No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule, in any operation involving the use of lead compounds.]

Prohibition of employment of women and children where cotton-openers are at work.

20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery-end by a partition extending from the floor to the roof, [3][or to such height as the inspector may, in any particular case, specify], women and children may be employed in the room in which the feed-end is situated.

CHAPTER IV.

Hours of Employment and Holidays.

Rest periods in factories.

[4][**21.** (*1*) In every factory there shall be fixed—

(*a*) for each person employed on each working day—

(*i*) at intervals not exceeding six hours, periods of rest of not less than one hour, or

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[1] Sub-section (*2*) of s. 19 was added by s. 6 (*2*) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

[2] These sections were inserted by s. 10 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[3] These words were inserted by s. 11 of *ibid.*

[4] This section was substituted for the original s. 21 by s. 12 of *ibid.*

(Chapter IV.—Hours of Employment and Holidays.)

[1][(*ii*) at the request of the employees concerned, periods of rest, at intervals not exceeding five hours, of not less than half an hour each, the total duration of the periods of rest on that day not being less than one hour for each period of six hours' work done]:

[2][Provided that, in lieu of the periods provided under sub-clause (*i*) or sub-clause (*ii*) there may be fixed for each male person employed for not more than eight and a half hours on each working day, at the request of the employees concerned and with the previous sanction of the Local Government, a period of rest of not less than half an hour, so arranged that no such person shall work for more than five hours continuously; and]

(*b*) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour.

(*2*) The period of rest under clause (*b*) shall be so fixed that no such child shall be required to work continuously for more than four hours.]

22. (*1*) No person shall be employed in any factory on a Sunday, unless— **Weekly Holiday.**

(*a*) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and

(*b*) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36:

[3][Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day.]

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1 This sub-clause was substituted by s. 7 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 This proviso was added by *ibid.*

3 This proviso was added by s. 13 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

(Chapter IV.—Hours of Employment and Holidays.)

[1][(2) Where, in accordance with the provisions of sub-section (*1*), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week.]

[2]* * * * * *

Employment of children.

23. With respect to the employment of children in factories the following provisions shall apply :—

(*a*) no child shall be employed in any factory unless he is in possession of a certificate granted under section 7 or section 8 showing that he is not less than [3][twelve] years of age and is fit for employment in a factory and while at work carries either the certificate itself or a token giving reference to such certificate;

(*b*) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(*c*) no child shall be employed in any factory for more than [4][six] hours in any one day.

Employment of women.

24. With respect to the employment of women in factories the following provisions shall apply :—

(*a*) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(*b*) no woman shall be employed in any factory for more than eleven hours in any one day.

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1 The original sub-section (*2*) was repealed by s. 33 and Sch. II of Act 2 of 1922 and new sub-section (*2*) was re-inserted by s. 2 of the Indian Factories (Amendment) Act, 1923 (9 of 1923).

2 Sub-sections (*3*) and (*4*) of section 22 were repealed by s. 33 and Schedule II of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

3 This word was substituted for the word "nine" by s. 14 (*1*) of *ibid.*

4 This word was substituted for the word "seven" by s. 14 (*2*) of *ibid.*

25. No person shall employ, or permit to be employed, in any factory any * * [1] child [2][or, save in such circumstances as may be prescribed, any other person] whom he knows, or has reason to believe, to have already been employed on the same day in any other factory. Prohibition of employment of child or any other person in two factories on same day.

26. The manager of a factory shall fix specified hours for the employment of each [3][person] employed in such factory, and no [3][person] shall be employed except during such hours. Hours of employment of persons to be fixed.

[4][27. No person shall be employed in a factory for more than sixty hours in any one week. Limitation of working hours per week.

28. No person shall be employed in any factory for more than eleven hours in any one day.] Limitation of working hours per day.

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[5]CHAPTER V.

EXCEPTIONS.

29. Nothing in any of the following sections, namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity. Exceptions for person holding positions of supervision, etc.

30. (*1*) Where it is proved to the satisfaction of the Local Government— Exemptions.

(*a*) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory; or

(*b*) that the work of any class of workers is essentially intermittent; or

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1 The words "woman or" were omitted by s. 8 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 These words were inserted by s. 15 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

3 This word was substituted for the words "woman and child" and the words "woman or child" respectively by s. 16 of *ibid.*

4 These sections were substituted for the original section 27 by s. 17 of *ibid.*

5 This Chapter was substituted for the original Chapter V by s. 18. of *ibid.*

(*Chapter V.—Exceptions.*)

(*c*) that there is in any class of factories any work which necessitates continuous production for technical reasons; or

(*d*) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day; or

(*e*) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except [1][(*i*)] at stated seasons or [1][(*ii*)] at times dependent on the irregular action of natural forces;

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose [and in such area as may be specified in the notification][2]—

in case (*a*) such class of work from all or any of the provisions of sections [3][21], 27 and 28;

in case (*b*) work of the nature described from all or any of the provisions of sections [4][21], 22, [26][4], 27 and 28;

in case (*c*) work of the nature described from the provisions of sections 21, [22 and 28][5];

in cases (*d*) and (*e*) such class of factories from the provisions of section 22;

[6][in case (*e*) (*ii*) such class of factories from the provisions of section 26.]

(*2*) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

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1 These figures and brackets were inserted by s. 9 (*a*) of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 These words were inserted by s. 9 (*b*) of *ibid.*

3 These figures were inserted by s. 9 (*c*) of *ibid.*

4 These figures were inserted by s. 9 (*d*) of *ibid.*

5 These figures and word were substituted for the word and figures "and 22" by s. 9 (*e*) of *ibid.*

6 This paragraph was added by s. 9 (*f*) of *ibid.*

(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs.

Payment for overtime.

31. Where, under the provisions of sub-section (*1*) [1][or sub-section (*2*)] of section 30, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid.

Special exemptions for indigo, tea and coffee factories.

32. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose.

Other special exemptions.

[2][**32A.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

(*a*) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine-room or boiler-house, or

(*b*) any fish-curing or fish-canning factory from the provisions of clause (*a*) of section 21 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material.]

CHAPTER VI.

NOTICES AND REGISTERS.

Person occupying factory to give notice.

33. (*1*) Every person occupying a factory shall,—

[3][on or before the date on which the factory commences working as such]

send to the inspector a written notice containing—

(*i*) the name of the factory and of the place where it is situate,

(*ii*) the address to which he desires his letters to be directed,

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1 These words and figure were inserted by s. 10 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 This section was inserted by s. 11 of *ibid.*

3 These words were substituted for clauses (*a*) and (*b*) by s. 19 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

(*Chapter VI.—Notices and Registers.*)

(*iii*) the nature of the work performed in such factory,

(*iv*) the nature and amount of the moving power therein, and

(*v*) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act:

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(2) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(3) During any period for which no person has been designated as manager of a factory under this section, [1][or during which the person designated does not manage the factory, any person found acting as manager of the factory or, if no such person is found, the occupier himself shall] be deemed to be the manager of the factory for the purposes of this Act.

Notice to be given of accident.

34. [2][When in any factory an accident occurs which causes] death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, [3][or which is due to any cause which has been notified in this behalf by the Local Government in the local official Gazette], the manager shall send notice of the accident to such authorities in such form and within such time as may be prescribed.

Register of workers.

[4][**35.** In every factory there shall be kept, in the prescribed form, a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment:]

[5][Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette, exempt,

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1 These words were substituted for the words "the occupier shall himself" by s. 12 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

2 These words were substituted for the words "When any accident occurs in a factory causing" by s. 13 of *ibid.*

3 These words were inserted by *ibid.*

4 This section was substituted for the original section 35 by s. 20 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

5 These provisos were added by s. 14 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

(Chapter VI.—Notices and Registers.)

on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children, employed therein :

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall be kept in place of the register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed.]

Affixing of abstract and notices.

36. *(1)* There shall be affixed in some conspicuous place near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely :—

(*a*) the time of beginning and ending work on each day;

[1][(*b*) the periods of rest fixed under section 21];

(*c*) the hours of beginning and ending work for each shift (if any); and

(*d*) the hours of employment of [2][all persons employed];

[3][(*e*) the weekly holidays fixed under section 22.]

(*2*) A copy of the said notice shall be sent to the inspector [4]* * * within one month of commencing work.

[5][(*3*) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force; and, when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours.]

* * * * * *[6]

[1] This clause was substituted for the original clause (*b*) by s. 21 (*a*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[2] These words were substituted for the words "women and children, respectively, if not employed in shifts" by s. 21 (*b*) of *ibid.*

[3] This clause was inserted by s. 21 (*c*) of *ibid.*

[4] The words "within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement of this Act," were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[5] This sub-section was substituted for the original sub-section (*3*) by s. 15 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

[6] Sub-section (*4*) of section 36 was repealed by s. 33 and Sch. II of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

CHAPTER VII.

RULES.

Power to make rules.

37. *(1)* Subject to the control of the Governor General in Council, the Local Government may make rules[1] for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the inspection of factories;

(b) the manner in which inspectors are to exercise the powers conferred on them by this Act;

(c) the duties to be performed by certifying surgeons;

(d) the form of the certificate prescribed by section 7, the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate;

(e) the methods, including lime-washing, painting, varnishing and washing, to be adopted in order to secure cleanliness and freedom from effluvia;

(f) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein;

(g) standards of ventilation [2][and artificial humidification] and the methods to be adopted in order to secure their observance;

(h) standards of latrine and urinal accommodation;

(i) standards of water-supply;

[3][*(j)* the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, sub-section *(1)*, clause *(c)*, and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers.]

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1 For rules made by the different Local Governments, *see* Local Rules and Orders.

2 These words were inserted by s. 22 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

3 This clause was substituted for the original clause *(j)* by s 3 of the Indian Factories (Amendment) Act, 1923 (9 of 1923).

(*Chapter VII.—Rules.*)

[1][(*ij*) the definition of 'persons' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity;]

(*k*) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent;

(*l*) the form of the register prescribed by section 35;

(*m*) the abstracts of the Act and of the rules required by section 36;

(*n*) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration and assessors; and

(*o*) the manner of service of notices and orders upon occupiers or managers of factories.

Returns.

38. The Governor General in Council may [2]* * * make rules[3] requiring occupiers or managers of factories to furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act.

Rules for prevention of anthrax.

[4][**38A.** The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores.]

Prior publication of rules.

39. (*1*) The power to make rules conferred by section 37, except clauses (*h*), (*l*) and (*m*) of sub-section (*2*) thereof, and by [5][sections 38 and 38A] is subject to the condition of the rules being made after previous publication.

X of 1897.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under [6][sections 37, 38 and 38A] will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

Commencement of rules.

40. Rules made under this Chapter shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall thereupon have effect as if enacted in this Act.

1 This clause was inserted by s. 22 of (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).
2 The words "from time to time" were repealed by s. 33 and Sch. II of *ibid.*
3 For such rules, *see* General Statutory Rules and Orders, Vol. IV, p. 287.
4 This section was inserted by s. 23 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).
5 These words and figures were substituted for the word and figures "section 38" by s. 24 (*a*) of *ibid.*
6 These words and figures were substituted for the words and figures "sections 37 and 38" by s. 24 (*b*) of *ibid.*

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Penalties.

41. If in any factory—

(*a*) any person is employed or allowed to work contrary to any of the provisions of this Act:

(*b*) any of the provisions of section 9 are not complied with;

(*c*) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided;

(*d*) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14;

(*e*) any door is constructed in contravention of section 15;

(*f*) any of the provisions of section 18, sub-sections (*1*), (*3*) and (*4*), regarding fencing and the protection from danger of persons employed in attending to the [1][machinery, electrical fittings or boilers] are not complied with;

(*g*) any order of an inspector under section 10, section 11, section 12, section 16, [2][section 18, section 18A or section [3][19A]] is not complied with;

(*h*) the register prescribed by section 35 is not kept up to date;

(*i*) any of the provisions of section 36 are not complied with;

(*j*) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished;

the occupier and manager shall be jointly and severally liable to a fine which may extend to [4][five hundred] rupees:

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (*g*) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

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[1] These words were substituted for the words "machinery or boilers" by s. 25 (*a*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[2] These words and figures were substituted for the words and figures "or section 18" by s. 25 (*b*) of *ibid*.

[3] These figures and letter were substituted for the figures and letter "19B" by s. 4 of the Indian Factories (Amendment) Act, 1923 (9 of 1923).

[4] These words were substituted for the words "two hundred" by s. 25 (*c*) of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

Exemption of occupier or manager from liability in certain cases.

42. (*1*) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(*2*) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

(*a*) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Penalties for certain offences.

43. Any person who—

(*a*) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce on demand by an inspector any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any person employed in a factory from appearing before or being examined by an inspector;

(*Chapter VIII.—Penalties and Procedure.*)

(*b*) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17; or

(*c*) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder;

shall be punishable with fine which may extend to [1][five hundred] rupees.

Power of Court to pay compensation out of fine.

[2][**43A.** Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.]

Using false certificate.

44. Any person who knowingly uses or attempts to use, as a certificate granted to himself under section 7 or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Employment of children in two factories on the same day.

[3][**44A.** Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid.]

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1 These words were substituted for the words "two hundred" by s. 26 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 This section was inserted by s. 27 of *ibid.*

3 This section was added by s. 16 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

(Chapter VIII.—Penalties and Procedure.)

Limit to penalty in case of repetition of offence.

45. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(*a*) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(*b*) where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act.

Presumption as to employment.

46. If a child over the age of six years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.

Evidence as to age.

47. (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

Cognizance of offences.

48. (*1*) No prosecution under this Act, except a prosecution under section 43, clause (*b*), shall be instituted except by or with the previous sanction of the inspector.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (*b*), [1][or section 41].

Limitation of prosecutions.

49. No Court shall take cognizance of any offence against this Act or any rule or order thereunder [2][other than an offence under section 33], unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

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[1] These words and figures were added by s. 28 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

[2] These words and figures were inserted by s. 17 of the Indian Factories (Amendment) Act, 1926 (26 of 1926).

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

Appeals.

50. *(1)* Any person on whom an order under section 10, section 11, section 12, section 16, [1][section 18, section 18A or section 19A] has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

[2]* * * * *

(3) In the case of any appeal under sub-section *(1)* the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe:

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

[3][*(4)* Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented.]

Special provision regarding computation of time.

51. *(1)* In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (8), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(2) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified

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1 These words and figures were substituted for the words and figures "or section 18" by s. 29 *(a)* of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 Sub-section *(2)* was omitted by s. 5 of the Indian Factories (Amendment) Act, 1923 (9 of 1923).

3 This sub-section was inserted by s. 29 *(b)* of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

months, for the morning and evening hours mentioned in section 23, clause (*b*),[1][and section 24, clause (*a*)], such one of the following sets of morning and evening hours, as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely:

five o'clock in the morning and half past six o'clock in the evening;
six o'clock in the morning and half past seven o'clock in the evening;
half past six o'clock in the morning and eight o'clock in the evening;
seven o'clock in the morning and half past eight o'clock in the evening.

52. In computing the hours referred to in section 23, clause (*c*), section 24, clause (*b*), [2][section 27, section 28 and section 31], any interval by which work is interrupted for half an hour or more shall be excluded. Computation of hours of employment.

53. The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories. Power to declare parts of a factory to be separate factories.

54. This Act shall apply to factories belonging to the Crown. Application to Crown factories.

55. [*Special provision for Burma for employment on Sunday.*] *Repealed by s. 33 and Sch. II of Act 2 of 1922.*

56. In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit. Power to exempt from Act.

57. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government. Exercise of power by Governor General in Council.

58. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection to persons acting under Act.

59. [*Repeal and savings.*] *Repealed by s. 33 and Sch. II of Act 2 of 1922.*

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1 These words and figures were substituted for the words and figures "section 24, clause (*a*), and section 29" by s. 30 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

2 These words and figures were substituted for the words and figures "section 28 and section 32" by s. 31 of *ibid.*

(The Schedule.)

[1][THE SCHEDULE.

(See section 19B.)

PART I.

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on :

2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap, lead or zinc :

3. The manufacture of solder or alloys containing more than ten per cent. of lead :

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead :

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators :

6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

PART II.

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin :

2. The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health :

3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times :

4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed :

[1] This Schedule was substituted for the original Schedules I and II by s. 32 of the Indian Factories (Amendment) Act, 1922 (2 of 1922).

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed :

6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition.]

ACT No. XIII OF 1911.[1]

[18th September, 1911.]

An Act further to amend the Indian Christian Marriage Act, 1872.

XV of 1872. WHEREAS it is expedient further to amend the Indian Christian Marriage Act, 1872; It is hereby enacted as follows :—

1. This Act may be called the Indian Christian Marriage (Amendment) Act, 1911. Short title.

XV of 1872. **2.** For section 81 of the Indian Christian Marriage Act, 1872, the following section shall be substituted, namely :— Substitution of new section 81, Act XV of 1872.

"81. The Registrar General of Births, Deaths and Marriages and the officers appointed under section 56 shall, at the end of every quarter in each year, select, from the certificates of marriages forwarded to them, respectively, during such quarter, the certificates of the marriages of which the Governor General in Council may desire that evidence shall be transmitted to England, and shall send the same certificates, signed by them respectively, to the Secretary of State for India." Certificates of certain marriages for Secretary of State.

ACT No. XIV OF 1911.[1]

[18th September, 1911.]

An Act further to amend the Court-fees Act, 1870.

VII of 1870. WHEREAS it is expedient further to amend the Court-fees Act, 1870; It is hereby enacted as follows :—

1. This Act may be called the Court-fees (Amendment) Act, 1911. Short title.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 112; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp. 634 and 654.

Amendment of Schedule II, Act VII of 1870.

2. In Schedule II of the Court-fees Act, 1870, after article 1 the following article shall be inserted, namely :— VII of 1870.

"1A. Application to any Civil Court that records may be called for from another Court.	When the Court grants the application and is of opinion that the transmission of such records involves the use of the post.	Twelve annas in addition to any fee levied on the application under clause (*a*), clause (*b*) or clause (*d*) of article 1 of this Schedule"

ACT No. XVII OF 1911.[1]

[*23rd September, 1911.*]

An Act to control the manufacture, possession, use, sale, import and export of [aircraft].[2]

WHEREAS it is expedient to take power to control the manufacture, possession, use, sale, import and export of [2][aircraft]; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian [2][Aircraft] Act, 1911.

(*2*) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

(*3*) It shall come into force on such [3]date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) [4][aircraft] means any machine fitted with mechanical or other means of propulsion designed to fly or float in the air without connection with the earth, and includes any part of any such machine :

(*2*) "export" means taking out of British India :

(*3*) "import" means bringing into British India : and

(*4*) "prescribed" means prescribed by rules under this Act.

1 For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 116; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp. 635, 654 and 680.

This Act has been declared to be in force in the Hill District of Arakan, *see* s. 2 and Sch. I of Regulation I of 1916, Bur Code, Vol. I.

2 This word was substituted for the word "airships" by s. 2 of the Indian Aircraft (Amendment) Act, 1914 (16 of 1914).

3 The Act was brought into force on 15th October, 1912, *see* General Statutory Rules and Orders, Vol. IV, p. 289

4 This word was substituted for the word "airship" by s. 2 of the Indian Aircraft (Amendment) Act, 1914 (16 of 1914).

3. (*1*) The Governor General in Council, or the Local Government subject to the control of the Governor General in Council, may make [1]rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by such rules, the manufacture, possession, use, sale, import and export of [2][aircraft] or any specified class of [2][aircraft]. **Power to make rules for licensing the manufacture, possession, use, sale, import and export of aircraft.**

(*2*) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council or the Local Government, as the case may be, may make rules for all or any of the following, among other matters, that is to say :—

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses shall be made, and the matters to be specified in such application;

(*d*) the forms in which, and the conditions subject to which licenses may be granted;

(*e*) the period for which licenses shall continue in force;

(*f*) the keeping by the holder of any such license of a record or account in the prescribed form of anything done under such license, and the exhibition of such record or account when called upon to do so by any officer of Government specially empowered by any such rule in this behalf;

(*g*) the production by the person holding any license of such license, and the production or accounting for by him of the [2][aircraft] covered by such license, when called upon to do so by any officer of Government specially empowered by any such rule in this behalf;

(*h*) the prohibition, either absolutely or subject to conditions, of the carrying in [2][aircraft] of all or any of the following things, namely :—explosives, arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf; and

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[1] For rules under this section in conjunction with section 6, *see* General Statutory Rules and Orders, Vol. IV, p. 289.

[2] *See* footnote 2 on the preceding page.

(i) the carrying of a number or other means of identification by [1][aircraft] and the registration of such number or means of identification.

(3) In making any rule under this section, other than under clause (h) thereof, the authority making the rule may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Power to Governor General in Council to prohibit the import or export of aircraft for public good.

4. (1) Notwithstanding anything in any rule made under section 3, the Governor General in Council may, by notification in the Gazette of India, prohibit either absolutely or subject to conditions the import or export of all or any [1][aircraft] or any class of [1][aircraft] if, in his opinion, the issue of such a notification is expedient in the interest of the public safety or tranquillity.

(2) When a notification has been issued under sub-section (1) the officers of sea customs shall have the same power in respect of the [1][aircraft] specified therein, and in respect of any vessel containing any such [1][aircraft] as they have for the time being in respect of any article the import or export of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power to Governor General in Council to cancel or suspend licenses and to acquire aircraft for the public service.

5. (1) If the Governor General in Council is of opinion that, in the interest of the public safety or tranquillity, the issue of all or any of the following orders is expedient, he may by notification in the Gazette of India—

(i) cancel or suspend all or any licenses issued under this Act either absolutely or subject to such conditions as he may think fit to prescribe;

(ii) direct that all or any [1][aircraft] or any specified class of [1][aircraft] shall be delivered, either forthwith or within a specified time, to such authority as he may appoint in this behalf;

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[1] *See* footnote 2 on p. 210, *supra.*

(iii) direct that all or any [1][aircraft] delivered to any authority in accordance with a direction under sub-clause (ii) shall be at the disposal of His Majesty for the public service.

(2) On the issue of a notification under clause (ii) of sub-section (*1*) any person in whose possession any [1][aircraft] referred to in such notification may be, shall forthwith, or within the time specified in such notification, deliver the same to the authority specified therein.

(3) On the issue of a notification under clause (iii) of sub-section (*1*) in respect of any [1][aircraft], the owner thereof shall be paid such compensation as may be determined by such officer as the Local Government may appoint in this behalf.

(4) In determining the amount of any compensation payable under sub-section (3), such officer shall have regard to any rules regulating the assessment and payment of compensation which the Governor General in Council, or the Local Government subject to the control of the Governor General in Council, may make in this behalf.

Power to make rules conferring powers of inspection, search, seizure, detention and removal.

6. (*1*) The Governor General in Council, or the Local Government subject to the control of the Governor General in Council, may make rules[2] consistent with this Act authorising any officer—

(*a*) to enter, inspect and examine any place, carriage or vessel in which an [1][aircraft] is being manufactured, possessed, used, sold, imported or exported under a license granted under this Act, or in which he has reason to believe that an [1][aircraft] has been or is being manufactured, possessed, used, sold, imported or exported in contravention of this Act or of any rule made thereunder;

(*b*) to search for [1][aircraft] therein;

(*c*) to seize, detain and remove any [1][aircraft] found therein; and

(*d*) to search any [1][aircraft] for explosives, arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, and to seize, detain and remove any such things if found thereon.

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1 *See* footnote 2 on page 210, *supra*.

2 For rules under this section in conjunction with section 3, *see* General Statutory Rules and Orders, Vol. IV, p. 289.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorised by rules under this section. V of 1898.

Prohibition and regulation of navigation of aircraft.

[1][7. (1) The Governor General in Council may, by notification in the Gazette of India, prohibit[2] or regulate the navigation of aircraft over, or the entry of aircraft by flight into, British India or any part thereof, including the territorial waters adjacent thereto.

(2) Subject to the control of the Governor General in Council the Local Government of a province may, by notification in the local official Gazette, exercise in respect of the province the like powers of prohibiting or regulating navigation as are conferred by sub-section (1) on the Governor General in Council.

(3) Any notification issued under sub-section (1) or (2) may apply either to all aircraft or to any specified class or description of aircraft, and may prohibit navigation or entry as aforesaid, as the case may be, either at all times or at specified times or on specified occasions, and either absolutely or subject to specified exceptions or conditions, and such conditions may, without prejudice to the generality of the foregoing provision, require any aircraft—

(a) to display specified signals or marks,

(b) to comply with specified signals in a specified manner,

(c) to land within a specified area or at a specified place, and

(d) in the case of aircraft entering British India by flight, also to enter at a specified place.

Compliance with signals.

7A. (1) Whenever an aircraft contravenes the conditions of a notification issued under section 7 requiring it to comply with specified signals in a specified manner, any person appointed in this behalf by the Governor General in Council may fire at or into such aircraft, and use any and every other means necessary to compel compliance.

(2) The Governor General in Council may delegate to any authority the power of making appointments under sub-section (1).]

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1 Sections 7 and 7A were substituted for section 7 by s. 3 of the Indian Aircraft (Amendment) Act, 1914 (16 of 1914).

2 For lists of prohibited areas under this section, see General Statutory Rules and Orders, Vol. IV, p. 339; Madras Local Rules and Orders, 1923, Vol. I, p. 436; Bombay Local Rules and Orders, 1924, Vol. II, p. 693.

8. Whoever in contravention of—

Penalty for certain offences.

(*1*) a rule made under section 3, sub-section (*2*), clause (*h*), carries in an [1][aircraft], explosives, fire-arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, or

(*2*) a notification issued under section 4, imports or exports an [1][aircraft], or

(*3*) a notification issued under section 5, sub-section (*1*), clause (i), does or abstains from doing any act, or

(*4*) a notification issued under section 5, sub-section (*1*), clause (ii), fails to deliver to the proper authority any [1][aircraft], in his possession, or

[2][(*5*) a notification issued under section 7, does or abstains from doing any act, unless, in the case of contravening a condition relating to navigation or landing, he proves that he was compelled thereto by stress of weather or other circumstances over which he had no control,]

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. Whoever, in any case not provided for in section 8, manufactures, possesses, uses, sells, imports or exports an [1][aircraft] in contravention of this Act or of the conditions of a license granted thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty in cases not provided for in section 8.

10. When a person is convicted of an offence punishable under this Act or [3] * the rules made thereunder, the Court before which he is convicted may direct that the [1][aircraft] or the thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

Forfeiture on conviction.

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1 *See* footnote 2 on p. 210, *supra*.

2 This clause was substituted by s. 4 of the Indian Aircraft (Amendment) Act, 1914 (16 of 1914).

3 The word "of" was repealed by s. 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914).

Abetments and attempts.

11. Whoever abets the commission of an offence punishable under this Act, or the rules made thereunder, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punishable as if he had committed the offence.

Saving for acts done by Government or Government officers.

12. Nothing in this Act shall apply to the manufacture, possession, use, sale, import or export of any [1][aircraft]—

(*a*) by order of the Government; or

(*b*) by any person employed under the Government in the execution of this Act or [2][by] a public servant in the course of his employment or duty as such.

Procedure for making rules.

13. (*1*) The power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(*2*) All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and shall thereupon have effect as if enacted in this Act.

Saving for acts done in good faith under Act.

14. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

ACT No. I OF 1912.[3]

[*1st March, 1912.*]

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899; It is hereby enacted as follows:— **II of 1899.**

Short title.

1. This Act may be called the Indian Stamp (Amendment) Act, 1912.

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[1] *See* footnote 2 on p. 210, *supra.*

[2] Substituted for "to" by the Repealing and Amending Act, 1914 (10 of 1914), Sch. I.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 186; for Report of Select Committee, *see ibid,* 1912, Pt. V, p. 3; and for Proceedings in Council, *see ibid,* 1911, Pt. VI, p 697, and *ibid,* 1912, Pt. VI, pp. 7, 30 and 256.

II of 1899. VI of 1910. **2.** In Article No 13 of Schedule I of the Indian Stamp Act, 1899 (hereinafter referred to as the said Act), as amended by the Indian Stamp (Amendment) Act, 1910, for clause (*b*) the following shall be substituted, namely :— Amendment of Act II, 1899, Schedule I, as amended by Act VI, 1910.

		If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
		Rs. a. p.	Rs. a. p.	Rs. a. p.
"(*b*) where payable otherwise than on demand, but not more than one year after date or sight—				
	Rs.			
if the amount of the bill or note does not exceed	200	0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed	400	0 6 0	0 3 0	0 2 0
Ditto 400 ditto	600	0 9 0	0 5 0	0 3 0
Ditto 600 ditto	800	0 12 0	0 6 0	0 4 0
Ditto 800 ditto	1,000	0 15 0	0 8 0	0 5 0
Ditto 1,000 ditto	1,200	1 2 0	0 9 0	0 6 0
Ditto 1,200 ditto	1,600	1 8 0	0 12 0	0 8 0
Ditto 1,600 ditto	2,500	2 4 0	1 2 0	0 12 0
Ditto 2,500 ditto	5,000	4 8 0	2 4 0	1 8 0
Ditto 5,000 ditto	7,500	6 12 0	3 6 0	2 4 0
Ditto 7,500 ditto	10,000	9 0 0	4 8 0	3 0 0
Ditto 10,000 ditto	15,000	13 8 0	6 12 0	4 8 0
Ditto 15,000 ditto	20,000	18 0 0	9 0 0	6 0 0
Ditto 20,000 ditto	25,000	22 8 0	11 4 0	7 8 0
Ditto 25,000 ditto	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.		9 0 0	4 8 0	3 0 0"

3. In section 23A, sub-section (*1*), of the said Act, for the words and figure "Article No. 5 (*b*)," the words and figure "Article No. 5 (*c*)" shall be substituted. Amendment of Act II, 1899, section 23A.

THE CO-OPERATIVE SOCIETIES ACT, 1912.

CONTENTS.

PRELIMINARY

(*Preliminary.*)

ACT No. III OF 1912.[1]

[*1st March, 1912.*]

An Act to amend the Law relating to Co-operative Societies.

WHEREAS it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co-operative Societies; It is hereby enacted as follows:—

Preliminary.

Short title and extent. **1.** (*1*) This Act may be called the Co-operative Societies Act, 1912; and

(*2*) It extends to the whole of British India.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "by-laws" means the registered by-laws for the time being in force, and includes a registered amendment of the by-laws:

(*b*) "committee" means the governing body of a registered society to whom the management of its affairs is entrusted:

(*c*) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules:

(*d*) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by-laws to give directions in regard to the business of the society:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt V, p. 95; for Report of Select Committee, *see ibid*, 1912, Pt. V, p 7; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, pp. 186, 679, and *ibid*, 1912, Pt. VI, pp. 3, 31 and 256.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *see* Bal. Code; in the Sonthal Parganas by Notification under s 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), *see* B. and O. Gazette, 1913, Pt II, p. 105; in the Arakan Hill District, by Reg. I of 1916, s. 2 and Sch. I, Bur. Code, Vol. I.

This Act has been repealed in its application to Bombay, by Bom. Act VII of 1925; in its application to Burma, by Bur. Act VI of 1927.

(e) "registered society" means a society registered or deemed to be registered under this Act :

(f) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act : and

(g) "rules" means rules made under this Act.

Registration.

The Registrar.

3. The Local Government may appoint a person to be Registrar of Co-operative Societies for the Province or any portion of it, and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act.

Societies which may be registered.

4. Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability :

Provided that unless the Local Government by general or special order otherwise directs—

(1) the liability of a society of which a member is a registered society shall be limited :

(2) the liability of a society of which the object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited.

Restrictions on interest of member of society with limited liability and a share capital.

5. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules; or

(b) have or claim any interest in the shares of the society exceeding one thousand rupees.

(Registration.)

Conditions of registration.

6. (*1*) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

(*a*) reside in the same town or village or in the same group of villages; or,

(*b*) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(*2*) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

Power of Registrar to decide certain questions.

7. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

8. (*1*) For purposes of registration an application to register shall be made to the Registrar.

(*2*) The application shall be signed—

(*a*) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 6, sub-section (*1*); and

(*b*) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(*3*) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

9. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are

not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its by-laws.

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled. **Evidence of registration.**

11. (*1*) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar. **Amendment of the by-laws of a registered society.**

(*2*) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(*3*) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Rights and liabilities of members.

12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws. **Member not to exercise rights till due payment made.**

13. (*1*) Where the liability of the members of a registered society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, have one vote only as a member in the affairs of the society. **Votes of members.**

(*2*) Where the liability of the members of a registered society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws.

(*3*) A registered society which has invested any part of its funds in the shares of any other registered society may appoint as its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

Restrictions on transfer of share or interest.

14. (*1*) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(*2*) In case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(*a*) he has held such share or interest for not less than one year; and

(*b*) the transfer or charge is made to the society or to a member of the society.

Duties of registered societies.

Address of societies.

15. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Copy of Act, rules and by-laws to be open to inspection.

16. Every registered society shall keep a copy of this Act and of the rules governing such society, and of its by-laws, open to inspection free of charge at all reasonable times at the registered address of the society.

Audit.

17. (*1*) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(*3*) The Registrar, the Collector or any person authorised by general or special order in writing in this behalf by the Registrar shall at all times have access to all the books, accounts, papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require

(Privileges of registered societies.)

Privileges of registered societies

Societies to be bodies corporate.

18. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim of society.

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past member—

(*a*) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;

(*b*) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

Charge and set-off in respect of shares or interest of member.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

Shares or interest not liable to attachment.

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither
III of 1909. the Official Assignee under the Presidency-towns Insolvency Act, 1909,
III of 1907. nor a Receiver under the [1]Provincial Insolvency Act, 1907, shall be entitled to or have any claim on such share or interest.

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[1] *See* now the Provincial Insolvency Act, 1920 (5 of 1920).

(Privileges of registered societies.)

Transfer of interest on death of member.

22. (*1*) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws.

Provided that—

(i) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid;

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(*2*) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be

(*3*) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member.

23. The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estates of deceased member.

24. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease.

(*Privileges of registered societies.*)

Register of members.

25. Any register or list of members or shares kept by any registered society shall be *primâ facie* evidence of any of the following particulars entered therein :—

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

Proof of entries in societies' books.

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceeding, as *primâ facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

27. Nothing in section 17, sub-section (*1*), clauses (*b*) and (*c*), of the Indian Registration Act, 1908, shall apply to— XVI of 1908.

(*1*) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immoveable property; or

(*2*) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(*3*) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from income-tax, stamp-duty and registration fees.

[1][**28.** (*1*)] The Governor General in Council, by notification[2] in the Gazette of India, may, in the case of any registered society or class of registered society, remit [3] the income-tax payable in respect of the

[1] This section was re numbered by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] For Notifications under this section, *see* General Statutory Rules and Orders, Vol. IV, pp. 340-341.

[3] The letter and brackets (*a*) were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(Privileges of registered societies. Property and funds of registered societies.)

profits of the society, or of the dividends or other payments received by the members of the society on account of profits,

[1]* * * * * * *

[2][(2) The Local Government, by notification in the local official Gazette, may, in the case of any registered society or class of registered society, remit—

(*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable, and

(*b*) any fee payable under the law of registration for the time being in force.]

Property and funds of registered societies.

Restrictions on loans.

29. (*1*) A registered society shall not make a loan to any person other than a member:

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(*2*) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of moveable property.

(*3*) The Local Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immoveable property by any registered society or class of registered societies.

Restrictions on borrowing.

30. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

Restrictions on other transactions with non-members.

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as the Local Government may, by rules, prescribe.

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[1] Clauses (*b*) and (*c*) were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] This sub-section was added by *ibid.*

(Property and funds of registered societies. Inspection of affairs.)

Investment of funds.

32. (*1*) A registered society may invest or deposit its funds—

(*a*) in the Government Savings Bank, or

(*b*) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, or **II of 1882.**

(*c*) in the shares or on the security of any other registered society, or

(*d*) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(*e*) in any other mode permitted by the rules.

(*2*) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

Funds not to be divided by way of profit.

33. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members:

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws:

Provided also that in the case of a society with unlimited liability no distribution or profits shall be made without the general or special order of the Local Government in this behalf.

Contribution to charitable purpose.

34. Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding ten per cent. of the remaining net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890. **VI of 1890.**

Inspection of affairs.

Inquiry by Registrar.

35. (*1*) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee, or of not less than one-third of the members, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(Inspection of affairs. Dissolution of society.)

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

Inspection of books of indebted society.

36. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society:

Provided that—

(a) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection to the creditor.

Costs of inquiry.

37. Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society.

Recovery of costs.

38. Any sum awarded by way of costs under section 37 may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

Dissolution of society.

Dissolution.

39. (1) If the Registrar, after an inquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society.

(Dissolution of society.)

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the appellate authority.

(5) The authority to which appeals under this section shall lie shall be the Local Government:

Provided that the Local Government may, by notification in the local official Gazette, direct that appeals shall lie to such Revenue-authority as may be specified in the notification.

40. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten. **Cancellation of registration of society.**

41. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body— **Effect of cancellation of registration.**

(*a*) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect;

(*b*) in the case of cancellation in accordance with the provisions of section 40, from the date of the order.

42. (1) Where the registration of a society is cancelled under section 39 or section 40, the Registrar may appoint a competent person to be liquidator of the society. **Winding up.**

(2) A liquidator appointed under sub-section (1) shall have power—

(*a*) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;

(*b*) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society;

(Dissolution of society)

(*c*) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(*d*) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and

(*e*) to give such directions in regard to the collection and distribution of the assets of the society, as may appear to him to be necessary for winding up the affairs of the society.

(*3*) Subject to any rules, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.[1] V of 1908.

(*4*) Where an appeal from any order made by a liquidator under this section is provided for by the rules, it shall lie to the Court of the District Judge.[2]

(*5*) [3]Orders made under this section shall, on application, be enforced as follows:—

(*a*) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as a decree of such Court;

(*b*) when made by the Court of the District Judge on appeal, in the same manner as a decree of such Court made in any suit pending therein.

(*6*) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a registered society under this Act.

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[1] In its application to British Baluchistan this sub-section shall be read as if the words "or the British Baluchistan Civil Justice Regulation, 1896, as the case may be" were added, *see* Schedule I of Regulation II of 1913, Bal. Code.

[2] For sub-section (*4A*) which applies to U. P. and Madras only, *see* U. P. Act 3 of 1919 and Mad. Act 10 of 1920.

[3] This sub-section has been modified in its application to U. P. and Madras, *see* U. P. Act 3 of 1919 and Mad. Act 10 of 1920.

(Rules.)

Rules.

43. *(1)* The Local Government may, for the whole or any part of the Province and for any registered society or class of such societies, make rules[1] to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) subject to the provisions of section 5, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;

(h) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;

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[1] For rules, *see* different Local Rules and Orders.

(*Rules.*)

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(*j*) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;

(*k*) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;

(*l*) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;

(*m*) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members;

(*n*) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;

(*o*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent, to an individual member;

(*p*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;

(*q*) prescribe the extent to which a society may limit the number of its members;

(*r*) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;

(*Rules. Miscellaneous.*)

(s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals: and

(t) prescribe the procedure to be followed by a liquidator appointed under section 42, and the cases in which an appeal shall lie from the order of such liquidator.

(3) The Local Government may delegate, subject to such conditions, if any, as it thinks fit, all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act.

Miscellaneous.

44. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any costs awarded to the Government under section 37, may be recovered in the same manner as arrears of land-revenue. **Recovery of sums due to Government.**

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

45. Notwithstanding anything contained in this Act, the Local Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration **Power to exempt societies from conditions as to registration.**

46. The Local Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order. **Power to exempt registered societies from provision s the Act.**

Prohibition of the use of the word "co-operative."

47. (*1*) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Local Government:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(*2*) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Indian Companies Act, 1882, not to apply.

48. The provisions of the [1]Indian Companies Act, 1882, shall not apply to registered societies. VI of 1882.

Saving of existing societies.

49. Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. X of 1904.

50. [*Repeal.*] *Repealed by s. 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914).*

ACT No. III OF 1912.[2]

[*1st March, 1912.*]

An Act further to amend the Indian Post Office Act, 1898.

WHEREAS it is expedient further to amend the Indian Post Office Act, 1898; It is hereby enacted as follows:— VI of 1898.

Short title.

1. This Act may be called the Indian Post Office (Amendment) Act, 1912.

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[1] *See* now the Indian Companies Act, 1913 (7 of 1913).

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 151; for Report of Select Committee, *see ibid*, 1912, Pt. V, p. 19; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, p. 656, and *ibid*, 1912, Pt. VI, pp. 4, 31 and 259.

2. For sub-sections (*1*) and (*2*) of section 21 of the said Act, the following sub-sections shall be substituted, namely — **Substitution of new sub-sections (*1*) and (*2*) in section 21 of Act VI of 1898.**

"21. (*1*) The Governor General in Council may make rules as to the transmission of articles by post.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) specify articles which may not be transmitted by post;

(*b*) prescribe conditions on which articles may be transmitted by post;

(*c*) provide for the detention and disposal of articles in course of transmission by post in contravention of rules made under clause (*a*) or clause (*b*);

(*d*) provide for the granting of receipts for, and the granting and obtaining of certificates of, posting and delivery of postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates; and

(*e*) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of postal articles, other than letters, for making communications."

3. (*1*) In section 23, sub-section (*2*), of the said Act, after the words "in contravention of" the words and figures "section 20, clause (*a*), or of" shall be inserted. **Amendment of section 23 of same Act,**

(*2*) In sub-section (*3*) of the same section of the said Act, for clause (*b*) the following shall be substituted, namely:—

"(*b*) any postal article sent by post in contravention of the provisions of section 20 may be disposed of in such manner as the Governor General in Council may by rule direct."

4. In section 24 of the said Act, for the words "Where a postal article suspected to contain any contraband goods" the words "Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force" shall be substituted. **Amendment of section 24 of same Act.**

Amendment of and addition to section 25 of same Act.

5. In section 25 of the said Act, for the words "all such goods found" the words "all postal articles reasonably believed or found to contain such goods" shall be substituted; and to the same section the following shall be added, namely.—

"In carrying out any such search, such officer of the Post Office may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by post."

Amendment of section 26 (*1*) of same Act.

6. In section 26, sub-section (*1*), of the said Act, for the words "shall be delivered to the Government or to an officer thereof mentioned in the order, to be disposed of in such manner as the Governor General in Council may direct" the following shall be substituted, namely:—

"shall be disposed of in such manner as the authority issuing the order may direct."

Amendment of section 35 of same Act.

7. (*1*) In section 35, sub-section (*2*), of the said Act, at the end of clause (*c*) the word "and" shall be omitted, and after clause (*d*) the following shall be added, namely:—

"(*e*) provide for the retention and repayment to the addressee in cases of fraud of money recovered on the delivery of any value-payable postal article; and

(*f*) prescribe the fees to be charged for inquiries into complaints regarding the delivery of or payment for value-payable postal articles."

(*2*) After sub-section (*3*) of the same section, the following shall be added, namely:—

"(*4*) No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of anything done, or in good faith purporting to be done, under any rule made under clause (*c*) of sub-section (*2*)."

Addition to section 48 of same Act.

8. To section 48 of the said Act, the following shall be added, namely:—

"or

(*e*) any wrong payment or delay in payment of a money order beyond the limits of British India, by an officer of any post office, not being one established by the Governor General in Council."

THE INDIAN LUNACY ACT, 1912.

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ACT No. IV OF 1912.[1]

[*16th March, 1912.*]

An Act to consolidate and amend the law relating to Lunacy.

WHEREAS it is expedient to consolidate and amend the law relating to lunacy; It is hereby enacted as follows :—

PART I.

Preliminary.

CHAPTER I

Short title and extent.

1. (*1*) This Act may be called the Indian Lunacy Act, 1912.

(*2*) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas, and the Pargana of Spiti.

Savings.

24 & 25 Vict., c. 104 to 1 & 2 Geo. 5, c. 18.

2. Nothing contained in Part II shall be deemed to affect the powers of any High Court which is or hereafter may be established under the Indian[2] High Courts Acts, 1861 to 1911, over any person found to be a lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Court as guardian of the person or manager of the estate of such lunatic.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "asylum" means an asylum [3][or mental hospital] for lunatics established or licensed by Government :

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 147; for Report of Select Committee, *see ibid*, 1912, Pt. V, p. 57; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, p. 655, and *ibid*, 1912, Pt. VI, pp. 3, 30, 187 and 458.

This Act except Chapter IV has been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, *see* B. & O. Code, Vol. I, and has also been declared in force in the Arakan Hill District by Reg. 1 of 1916, s. 2 and Sch. I; Bur. Code, Vol. I.

This Act has been declared, subject to certain modifications, to be in force in the Pargana of Manpur; *see* s. 2 and Schedule of the Manpur Laws Regulation, 1926 (2 of 1926).

[2] Coll. Stats., but the Acts have now been repealed by the Government of India Act, 1915.

[3] These words were inserted by s. 2 of the Indian Lunacy (Amendment) Act, 1922 (6 of 1922).

(*Part I.—Preliminary. Chapter I*)

(*2*) "cost of maintenance" in an asylum includes the cost of lodging, maintenance, clothing, medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from an asylum [1][together with any other charges specified in this behalf by the Governor General in Council, in exercise of any power conferred upon him by this Act]:

(*3*) "District Court" means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency-towns:

(*4*) "criminal lunatic" means any person for whose [2][detention] in, or removal to an asylum, jail or other place of safe custody an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898, or of section 30 of the Prisoners Act, 1900, [3][or of section 103A of the Indian Army Act, 1911]: **V of 1898. III of 1900. VIII of 1911.**

(*5*) "lunatic" means an idiot or person of unsound mind:

(*6*) "Magistrate" means a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or a Magistrate of the first class specially empowered by the Local Government to perform the functions of a Magistrate under this Act:

(*7*) "medical officer" means a gazetted medical officer of Government, and includes a medical practitioner declared by general or special order of the Local Government to be a medical[4] officer for the purposes of this Act:

(*8*) "medical practitioner" means a holder of a qualification to practise medicine and surgery which can be registered in the United Kingdom in accordance with the law for the time being in force for the registration of medical practitioners, and includes any person declared by general or special order of the Local Government to be a medical[5] practitioner for the purposes of this Act:

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1 These words were added by s. 2 of the Indian Lunacy (Amendment) Act, 1922 (6 of 1922).

2 This word was substituted for the word "confinement" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

3 These words were added by s. 5 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

4 For notification by the Government of Madras *see* Madras Local Rules and Orders, 1923, Vol. I, p. 437.

5 For notification by the Government of Madras *see ibid.*

(*9*) "prescribed" means prescribed by this Act or by rule made thereunder :

(*10*) "reception order" means an order made under the provisions of this Act for the reception into an asylum of a lunatic other than a lunatic so found by inquisition :

(*11*) "relative" includes any person related by blood, marriage or adoption : and

(*12*) "rule" means a rule made under this Act.

PART II.

Reception, care and treatment of Lunatics.

CHAPTER II.

Reception of Lunatics.

Reception of persons in asylum.

4. (*1*) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by sections 8, 16 and 98 :

Provided that any person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(*2*) A boarder received in an asylum under the proviso to sub-section (*1*) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition.

Application for reception order.

5. (*1*) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

(*2*) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(*3*) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any Court; and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

(*4*) No application for a reception order shall be entertained in any area outside the Presidency-towns unless the Local Government has, by notification[1] in the local official Gazette, declared such area as an area in which reception orders may be made.

Application by whom to be presented. **6.** [2][(*1*) Subject to the provisions of sub-section (*3*), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from India or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented.]

(*2*) [3][If the petition is not presented by the husband or wife, or, where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition] shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

(*3*) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject, and has within fourteen days before the presentation of the petition, personally seen the said lunatic.

(*4*) The petition shall be signed and verified by the petitioner, and the statement of prescribed particulars by the person making such statement.

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1 For such a notification by the Government of Bengal, *see* Calcutta Gazette, 1913, Part I, p. 1630; by Bihar and Orissa, *see* Bihar and Orissa Gazette, 1913, Part II, p. 1392; by Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, p. 437; by Bombay, *see* Bombay Local Rules and Orders, 1924, Vol. II, p. 694; by U. P., *see* U. P. Gazette, 1914, Part I, p. 496; by Assam, *see* Assam Gazette, 1917, Part II, p. 1364.

2 This sub-section was substituted by s. 2 of the Indian Lunacy (Amendment) Act, 1926 (5 of 1926).

3 These words were substituted for the words "If the petition is not so presented, it" by *ibid.*

7. (*1*) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition and the evidence of lunacy appearing by the medical certificates. **Procedure upon petition for reception order.**

(*2*) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

(*3*) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(*4*) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

8. Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry. **Detention of alleged lunatic pending in quiry.**

9. The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit. **Consideration of petition.**

10. (*1*) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit. **Order.**

(*2*) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

11. No reception order shall be made under section 7 or section 10, save in the case of a lunatic who is dangerous and unfit to be at large, unless— **Further provisions as to reception orders on petition.**

(*a*) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and

(Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

(*b*) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

Power to appoint substitute for the person upon whose application a reception order has been made.

[1][**11A.** (*1*) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly:

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(*2*) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(*3*) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution .

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under

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1 This section was inserted by s. 3 of the Indian Lunacy (Amendment) Act, 1926 (5 of 1926).

this Act of such first-mentioned person, the Magistrate shall make such an order.

(*4*) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless, for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(*5*) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(*6*) Any notice under sub-section (*2*) may be sent by post to the last known address of the person for whom it is intended.]

Reception order in case of lunatics from foreign States in India.

[1][**11B.**] (*1*) When an arrangement has been made with any foreign European State with respect to the reception of lunatics in asylums in British India, the Governor General in Council may, by notification in the Gazette of India, direct that reception orders may be made under this Act in the case of any lunatic or class of lunatics residing in the territories in India of such foreign European State, and shall in such notification specify the province or provinces within which such reception orders may be made.

(*2*) On publication of a notification under sub-section (*1*), the provisions of this Act as to the making of reception orders on petition and for temporary detention in suitable custody shall apply in the case of such lunatics, with the following modifications, namely:—

(*a*) an application for a reception order may be made by petition presented by such officer or agent of the foreign State in which the alleged lunatic ordinarily resides, as may by general or special order be approved by the Local Government in this behalf;

(*b*) the functions of the Magistrate shall be performed by such officer as the Local Government may, by general or special order, appoint

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[1] This section was originally inserted as s. 11A by the Indian Lunacy (Amendment) Act, 1916 (12 of 1916), and was renumbered as section 11B by s. 3 of the Indian Lunacy (Amendment) Act, 1926 (5 of 1926).

in this behalf, and such officer shall be deemed to be the Magistrate having jurisdiction over the alleged lunatic for all the purposes of the said provisions:

(*c*) for the purposes of sections 5 and 18 (*1*), the expressions "medical officer" and "medical practitioner" shall include such person or class of persons as the Local Government may specify in this behalf;

(*d*) the Magistrate may in his discretion extend the period prescribed by section 19 within which the alleged lunatic must have been medically examined; and

(*e*) sections 6 (*1*), (*2*), (*3*), 11, [11A][1] and 34 of the Act, shall not apply,

and with such other modifications, restrictions or adaptations as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of facilitating the application of the said provisions.

(*3*) A reception order made under this section shall be deemed to be a reception order made under section 7 or section 10, as the case may be.

Reception orders otherwise than on petition.

Reception order in case of lunatic soldier.

12. When any European who is subject to the provisions of the [2]Army Act [3][or the Air Force Act] has been declared a lunatic in accordance with the provisions of the military [3][or air force] regulations in force for the time being, and it appears to any administrative medical officer that he should be removed to an asylum, such administrative medical officer may, if he thinks fit, make a reception order under his hand for the admission of the said lunatic into any asylum which has been duly authorized for the purpose by the Governor General in Council[4]. **44 & 45 Vict., c. 58.**

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[1] These figures and the letter were inserted by s. 4 of the Indian Lunacy (Amendment) Act, 1926 (5 of 1926).

[2] Collection of Statutes relating to India, Vol. I.

[3] These words were added by s. 2 and the First Sch. of the Repealing and Amending Act, 1927 (10 of 1927).

[4] For notifications under this section, *see* General Statutory Rules and Orders, Vol. IV, pp. 342-343.

13. (*1*) Every officer in charge of a police-station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

Powers and duties of police in respect of wandering or dangerous lunatics and lunatics cruelly treated or not under proper care and control.

(*2*) Every officer in charge of a police-station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate

14. Whenever any person is brought before a Magistrate under the provisions of sub-section (*1*) of section 13, the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and may make such other inquiries as he thinks fit; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to such person, make a reception order for the admission of such lunatic into an asylum:

Reception order in case of wandering and dangerous lunatics.

Provided that, if any friend or relative desires that the lunatic be sent to a licensed asylum and engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic in such asylum, the Magistrate shall, if the person in charge of such asylum consents, make a reception order for the admission of the lunatic into the licensed asylum mentioned in the engagement:

Provided further that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit, conditioned that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or to others, the Magistrate, instead of making a reception order, may, if he thinks fit, make him over to the care of such friend or relative.

Order in case of lunatic cruelly treated or not under proper care and control.

15. (*1*) If it appears to the Magistrate, on the report of a police-officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him, and summon such relative or other person as has or ought to have the charge of him.

(*2*) If such relative or other person is legally bound to maintain the alleged lunatic, the Magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(*3*) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in section 14, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the admission of such lunatic into an asylum.

Detention of alleged lunatic pending report by medical officer.

16. (*1*) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of section 13 or section 15, the Magistrate may, by an order in writing, authorize the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.

(*2*) The Magistrate may, from time to time, for the same purpose by order in writing, authorize such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary:

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate

17. All acts which the Magistrate is authorized or required to do by sections 14, 15 or 16 may be done in the Presidency-towns or Rangoon by the Commissioner of Police; and all duties which an officer in charge of a police-station is authorized or required to perform may be performed in any of the Presidency-towns by an officer of the police force not below the rank of an inspector.

Commissioner of Police, etc., to act in the Presidency-town.

Further provisions as to reception orders and medical certificates.

18. (*1*) Every medical certificate under this Act shall be made and signed by a medical practitioner or a medical officer, as the case may be, and shall be in the form prescribed.

Medical certificates.

(*2*) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others.

(*3*) Every medical certificate made under this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

19. (*1*) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or, where two certificates are required, each person who signs a certificate has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition, and, in all other cases not more than seven clear days before the date of the order.

Time and manner of medical examination of lunatic.

(*2*) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

20. A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorized by him, or in the case of an order not made upon petition, for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order

Authority for reception.

and for his reception and detention therein, or in any asylum to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order:

[1][Provided that no reception order shall continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed.]

21. Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted. **Copy of reception order to be sent to person in charge of asylum.**

22. Subject to the provisions of section 85, no Magistrate shall make a reception order for the admission of any lunatic into any asylum established by Government outside the province in which the Magistrate exercises jurisdiction. **Restriction as to asylums into which reception orders may direct admission.**

Detention of lunatics pending removal to asylum.

23. When any reception order has been made under sections 7, 10, 14 or 15, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody in such place as the Magistrate thinks fit. **Detention of lunatics pending removal to asylum.**

Reception and detention of criminal lunatics.

V of 1898. III of 1900. VIII of 1911. **24.** An order under section 466 or section 471 of the Code of Criminal Procedure, 1898, or under section 30 of the Prisoners Act, 1900 [2][or under section 103A of the Indian Army Act, 1911], directing the reception of a criminal lunatic into any asylum which is prescribed for the reception of criminal lunatics shall be sufficient authority for the reception and detention of any person named therein in such asylum or in any other asylum to which he may be lawfully transferred. **Reception and detention of criminal lunatics.**

[1] This proviso was added by s. 2 of the Indian Lunacy (Amendment) Act, 1923 (32 of 1923).

[2] These words were inserted by s. 5 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

Reception after inquisition

25. A lunatic so found by inquisition may be admitted into an asylum— **Reception after inquisition.**

(*1*) in the case of an inquisition under Chapter IV, on an order made by, or under the authority of, the High Court;

(*2*) in the case of an inquisition under Chapter V, on an order made by the District Court.

26. (*1*) When any lunatic has been admitted into an asylum in accordance with the provisions of section 25, the High Court or the District Court, as the case may be, shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him: **Order for payment of cost of maintenance of lunatic.**

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(*2*) An order under sub-section (*1*) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property or person therein mentioned.

Amendment of order or certificate.

27. If, after the reception of any lunatic into any asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer. **Amendment of order or certificate.**

CHAPTER III.

CARE AND TREATMENT

Visitors

Appointment of visitors.

28. (*1*) The Local Government shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer.

(*2*) The Inspector-General of Prisons (where such office exists) shall be a visitor *ex-officio* of all the asylums within the limits of his jurisdiction.

Monthly inspection by visitors.

29. Two or more of the visitors, one of whom shall be a medical officer, shall, once at least in every month, together inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic and boarder therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

Inspection of criminal lunatics by Inspector-General or visitors.

30. (*1*) When any person is [1][detained] under the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898 [2][or under the provisions of section 103A of the Indian Army Act, 1911], the Inspector-General of Prisons, if such person is [1][detained] in a jail or the visitors of the asylum or any two of them, if he is [1][detained] in an asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is [1][detained].

V of 1898.
VII of 1911.

(*2*) The Local Government may empower the officer in charge of the jail in which such person may be [1][detained] to discharge all or any of the functions of the Inspector-General under sub-section (*1*).

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1 This word was substituted for the word "confined" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

2 These words were inserted by s. 5 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

(Part II.—Reception, Care and Treatment of Lunatics. Chapter III.—Care and Treatment.)

Discharge of lunatics.

Order of discharge from asylum by visitors.

31. (*1*) Three of the visitors of any asylum, of whom one shall be a medical officer, may, by order in writing, direct the discharge of any person detained in such asylum, and such person shall thereupon be discharged :

Provided that no order under this sub-section shall be made in the case of a person detained under a reception order under section 12, or, in the case of a criminal lunatic, otherwise than as provided by section 30 of the Prisoners Act, 1900.

III of 1900.

(*2*) When such order is made, if the person is detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority.

Discharge of lunatics in other cases and of European military lunatics.

32. (*1*) A lunatic detained in an asylum under a reception order, made on petition, shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum :

Provided that no lunatic shall be discharged under the provisions of sub-section (*1*) if the officer in charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large.

(*2*) A person detained in an asylum under a reception order made under section 12 shall be detained therein until he is discharged therefrom in accordance with the military [1][or air force] regulations in force for the time being, or until the officer making the order applies for his transfer to the military [1][or air force] authorities in view to his removal to England.

(*3*) Whenever it appears to the officer in charge of an asylum that the discharge of a person therein detained under an order made under section 12 is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the General or other Officer Commanding the division, district, brigade, or force, or other officer authorized to order the admission of such persons into an asylum, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the military [1][or air force] regulations in force for the time being.

[1] These words were added by s. 2 and the First Schedule of the Repealing and Amending Act, 1927 (10 of 1927).

Order of discharge on undertaking of relative for due care of the lunatic.

33. When any relative or friend of a lunatic detained in any asylum under the provisions of sections 14, 15 or 17 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged

Discharge of pension subsequently found on inquisition not to be of unsound mind.

34. If any lunatic detained in an asylum on a reception order made under sections 7, 10, 14, 15 or 17 is subsequently found on an inquisition under Chapter IV or Chapter V not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics.

Removal of lunatics and criminal lunatics.

35. *(1)* [1][Any lunatic may, in accordance with any general or special order of the Local Government, be removed from any asylum established by Government to any other asylum within the province, or to any other asylum in any other province, with the consent of the Local Government of that province :]

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner.

(2) The [2][Local Government] may make such general or special order as [3][it] thinks fit directing the removal of any person for whose

[1] These words were substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] These words were substituted for the words "Governor General in Council" by *ibid.*

[3] This word was substituted for the word "he" by *ibid.*

[1][detention] an order has been made under section 466 or section 471 of the Code of Criminal Procedure, 1898,[2] [or under section 103A of the Indian Army Act, 1911], from the place where he is for the time being [3][detained] to any asylum, jail or other place of safe custody [4][in the province, or to any asylum, jail or other place of safety in any other province with the consent of the Local Government of that province.]

V of 1898. VIII of 1911.

Escape and re-capture.

Order to justify detention and recapture after escape.

36. Every person received into an asylum under any such order as is required by this Act, may be detained therein until he is removed or discharged as authorized by law, and in case of escape may, by virtue of such order, be re-taken by any police-officer or by the person in charge of such asylum, or any officer or servant belonging thereto, or any other person authorised in that behalf by the said person in charge, and conveyed to and received and detained in such asylum:

Provided that in the case of a lunatic not being a criminal lunatic or a lunatic in respect of whom a reception order has been made under section 12, the power to re-take such escaped lunatic under this section shall be exerciseable only for a period of one month from the date of his escape.

PART III.

Judicial Inquisition as to Lunacy.

CHAPTER IV.

PROCEEDINGS IN LUNACY IN PRESIDENCY-TOWNS.

Inquisition.

Jurisdiction in lunacy in Presidency-towns.

37. The Courts having jurisdiction under this Chapter shall be the High Courts of Judicature at Fort William, Madras and Bombay.

1 This word was substituted for the word "confinement" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

2 These words were inserted by s. 5 of the Indian Army (Amendment) Act, 1923 (33 of 1923).

3 This word was substituted for the word "confined" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

4 These words were substituted for the words "in British India" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

Court may order inquisition as to persons alleged to be insane.

38. (*1*) The Court may upon application by order direct an inquisition whether a person subject to the jurisdiction of the Court who is alleged to be lunatic, is of unsound mind and incapable of managing himself and his affairs.

(*2*) Such order may also contain directions for inquiries concerning the nature of the property belonging to the alleged lunatic, the persons who are his relatives, the time during which he has been of unsound mind, or such other matters as to the Court may seem proper.

Application by whom to be made.

39. Application for such inquisition may be made by any relative of the alleged lunatic, or by the Advocate-General.

Notice of time and place of inquisition.

40. (*1*) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(*2*) If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(*3*) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

Powers of Court in respect of attendance and examination of lunatic.

41. (*1*) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(*2*) The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

Rules respecting attendance and examination of females alleged to be lunatic.

42. The attendance and examination of the alleged lunatic under the provisions of section 41 shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

43. (*1*) If the alleged lunatic is not within the local limits of the jurisdiction of the Court, and the inquisition cannot conveniently be made in the manner hereinbefore provided, the Court may direct the inquisition to be made before the District Court within whose local jurisdiction the alleged lunatic may be; and such District Court shall accordingly proceed to make such inquisition in the same manner as if the alleged lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of inquisition to the Court directing the inquisition. **Power to direct District Court to make inquisition in certain cases.**

(*2*) The record of evidence taken upon the inquisition shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the inquisition was directed

44. If the finding of the District Court appears to the Court directing the inquisition to be defective or insufficient in point of form, it may either amend the same or refer it back to the Court which made the inquisition to be amended. **Amendment of finding of District Court if defective or insufficient in form.**

45. The finding of the Court on the inquisition or the finding of the District Court to which the inquisition may have been referred under the provisions of section 43 with such amendments as may be made under the provisions of section 44, as the case may be, shall have the same effect, and be proceeded on in the same manner in regard to the appointment of a guardian of the person and a manager of the estate of the lunatic as the findings referred to in section 12 of the [1]Lunacy (Supreme Courts) Act, 1858, immediately before the commencement of this Act. **Proceedings on finding of Court.** **XXXIV of 1858.**

Judicial powers over person and estate of lunatic.

46. (*1*) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates. **Custody of lunatics and management of their estates.**

(*2*) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provision for the maintenance of the lunatic and of

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[1] Repealed by the Indian Lunacy Act, 1912 (4 of 1912).

such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic

Powers of manager in respect of management of lunatic's estate.

47. The Court, on the appointment of a manager of the estate of a lunatic, may direct by the order of appointment, or by any subsequent order, that such manager shall have such powers for the management of the estate as to the Court may seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist:

Provided that no manager so appointed shall without the permission of the Court—

(*a*) mortgage, charge or transfer by sale, gift, exchange or otherwise, any immoveable property of the lunatic; or

(*b*) lease any such property for a term exceeding five years

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

Power to make order concerning any matter connected with the lunacy.

48. The Court may, on application made to it by petition concerning any matter whatsoever connected with the lunatic or his estate, make such order, subject to the provisions of this Chapter, respecting the application, as in the circumstances it thinks fit.

Management and administration.

Power to dispose of lunatic's property for certain purposes.

49. The Court may, if it appears to be just or for the lunatic's benefit, order that any property, moveable or immoveable, of the lunatic, and whether in possession, reversion, remainder, or contingency, be sold, charged, mortgaged, dealt with or otherwise disposed of as may seem most expedient for the purpose of raising or securing or repaying with or without interest money to be applied or which has been applied to all or any of the following purposes, namely—

(*1*) the payment of the lunatic's debts or engagements;

(*2*) the discharge of any incumbrance on his property;

(*3*) the payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit;

(4) the payment of or provision for the expenses of his future maintenance and the maintenance of such members of his family as are dependent on him for maintenance, including the expenses of his removal to Europe, if he shall be so removed, and all expenses incidental thereto.

(5) the payment of the costs of any inquiry under this Chapter, and of any costs incurred by order or under the authority of the Court

50. (*1*) The manager of the lunatic's estate shall, in the name and on behalf of the lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage or other disposition of his estate as the Court may order. **Execution of conveyances and powers by manager under order of Court.**

(*2*) Such manager shall, in like manner, under the order of the Court, exercise all powers whatsoever vested in a lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

51. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the manager of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper. **Court may order performance of contract.**

52. (*1*) Where a person, being a member of a partnership firm, is found to be a lunatic, the Court may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership. **Dissolution and disposal of property of partnership on a member becoming lunatic.**

(*2*) Upon such dissolution, or upon a dissolution by decree of Court or otherwise by due course of law, the manager of the estate may, in the name and on behalf of the lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

53. Where a lunatic has been engaged in business the Court may, if it appears to be for the lunatic's benefit that the business premises should be disposed of, order the manager of the estate to sell and dispose **Disposal of business premises.**

of the same, and the moneys arising from such sale shall be applied in such manner as the Court may direct.

Manager may dispose of lease.

54. Where a lunatic is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the manager of the estate may, by order of the Court, surrender, assign or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms, as the Court thinks fit.

Assumption of charge by Court of Wards of land belonging to a lunatic in certain cases.

55. If a lunatic is possessed of any immoveable property situate beyond the local limits of the jurisdiction of the Court which, by the law in force in the Province wherein such property is situated, subjects the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the said Court of Wards may assume the charge of such property and manage the same according to the law for the time being in force for such management:

Provided that—

(*1*) in such case, no further proceedings in respect of the lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said lunatic or a manager of the estate except of the immoveable property which so subjects the proprietor as aforesaid

(*2*) the surplus of the income of such property, after providing for the payment of the Government revenue and expenses of management, shall be disposed of from time to time in such manner as the High Court may direct:

(*3*) nothing contained in this section shall affect the powers given to the High Court by sections 49, 50 and 51 or (except so far as relates to the management of the said immoveable property which so subjects the proprietor as aforesaid) the powers given by any other section.

Power to apply property for lunatic's maintenance without appointing manager in certain cases.

56. (*1*) If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner it may, instead of appointing a manager of the estate, order that the property if money or if of any other description the produce thereof,

when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid.

(2) The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

Vesting orders.

57. Where any stock or Government securities or any share in a company (transferable within British India or the dividends of which are payable there) is or are standing in the name of, or vested in, a lunatic, beneficially entitled thereto, or in a manager of the estate of a lunatic, or in a trustee for him, and the manager dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the manager is living or dead, or he neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager or as the Court directs, within fourteen days after being required by the Court to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court directs.

Power to order transfer of stock belonging to lunatic in certain cases.

58. Where any such stock or Government securities or share in a company is or are standing in the name of, or vested in, any person residing out of British India and not in any part of the United Kingdom, the Court upon being satisfied that such person has been declared lunatic, and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock, securities or shares or of any part thereof, to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends and proceeds as the Court thinks fit.

Power to order transfer of stock of lunatic residing out of British India and the United Kingdom.

General.

59. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance, the Court may, in like manner as under section 56, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Power to apply property for lunatic's maintenance in case of temporary lunacy.

Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased

60. (*1*) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the Court that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(*2*) The enquiry shall be conducted as far as may be in the manner prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic; and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

Power of Court to make rules.

61. The Court may, from time to time, make rules for the purpose of carrying into effect the provisions of this Chapter in matters of lunacy.

CHAPTER V

PROCEEDINGS IN LUNACY OUTSIDE PRESIDENCY-TOWNS

Inquisition.

Power of District Court to institute inquisition as to persons alleged to be lunatic.

62. Whenever any person not subject to the jurisdiction of any of the Courts mentioned in section 37 is possessed of property and is alleged to be a lunatic, the District Court, within whose jurisdiction such person is residing may, upon application, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

Lunacy.

Application by whom to be made.

63. (*1*) Application for such inquisition may be made by any relative of the alleged lunatic or by any public Curator appointed under the [1]Succession (Property Protection) Act, 1841 (hereinafter referred to as the Curator), or by the Government Pleader, as defined in the Code of Civil Procedure, 1908, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Collector of the district in which it is situate.

XIX of 1841.

V of 1908.

[1] *See* now the Indian Succession Act, 1925 (39 of 1925).

(2) If the property or any part thereof is of such a description that it would by the law in force in any Province where such property is situate subject the proprietor, it disqualified, to the jurisdiction of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards

64. The provisions of sections 40, 41 and 42 shall regulate the proceedings of the District Court with regard to the matters to which they relate. **Regulation of proceedings of District Courts.**

65. (*1*) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition. **Inquisition by District Court and finding thereon.**

(*2*) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others.

66. (*1*) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said Court may issue a Commission to any subordinate Court to make the inquisition, and such subordinate Court shall thereupon conduct the inquisition in the manner hereinbefore provided in this Chapter. **Inquisition by subordinate Court on commission issued by District Court and proceedings thereon.**

(*2*) On the completion of the inquisition the subordinate Court shall transmit the record of its proceedings with the opinions of the assessors if assessors have been appointed, and its own opinion on the case; and the District Court shall thereupon proceed to dispose of the application in the manner provided in section 65, sub-section (*2*) :

Provided that the District Court may direct the subordinate Court to make such further or other inquiries as it thinks fit before disposing of the application.

Judicial powers over person and estate of lunatic.

67. (*1*) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates. **Custody of lunatics and management of their estates.**

(*2*) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable

of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provisions for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

Court of Wards to be authorised in certain cases to take charge of estate of lunatic.

68. If the estate of a lunatic so found or any part thereof consists of property which, by the law for the time being in force, subjects the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the Court of Wards shall be authorised to take charge of the same.

Power to direct Collector to take charge of person and estate of lunatic in certain cases.

69. (*1*) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, but is not of such a nature that it would subject the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the District Court may direct the Collector to take charge of the person and estate of the lunatic:

Provided that no such order shall be made without the consent of the Collector previously obtained.

(*2*) The Collector shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

Control over proceedings of Collector.

70. All proceedings of the Collector in regard to the person or estate of a lunatic under this Chapter shall be subject to the control of the Local Government or of such authority as it may appoint in this behalf.

Power of District Court to appoint guardian and manager and take security from manager.

71. (*1*) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person:

Provided that a District Court may, instead of appointing a manager of the estate of a lunatic, exercise any of the powers conferred on the High Court under sections 56 and 59.

(*2*) Any person who has been appointed by the District Court or Collector to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Collector, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

72. The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic. **Restriction on appointment of legal heir of lunatic to be guardian of his person.**

73. A guardian of the person of a lunatic or a manager of his estate appointed under this Chapter shall be paid such allowance, if any, as the Court or the Collector, as the case may be, thinks fit for his care and pains in the execution of his duties. **Remuneration of managers and guardians.**

74. (*1*) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance. **Duties of guardian.**

(*2*) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Collector as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance.

75. (*1*) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic : **Powers of manager.**

Provided that no manager so appointed shall without the permission of the Court—

(*a*) mortgage, charge, or transfer by sale, gift, exchange or otherwise any immoveable property of the lunatic,

(*b*) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(*2*) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of the lunatic.

Manager to furnish inventory and annual accounts.

76. (1) Every person appointed by the District Court or by the Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the immoveable property belonging to the lunatic and of all such money, or other moveable property, as he may receive on account of the estate, together with a statement of all debts due by or to the same.

(2) Every such manager shall also furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

Proceeding if accuracy of inventory or accounts is impugned.

77. If any relative of the lunatic, or the Collector by petition to the Court, impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the manager was appointed by the Collector.

Payment into public treasury and investment of proceeds of estate.

78. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trusts Act, 1882, unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, directs that such sums be in the interest of the lunatic otherwise invested or applied. **II of 1882.**

Relative may sue for an account.

79. Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

80. (*1*) The District Court, for any sufficient cause, may remove any manager appointed by it not being the Curator, and may appoint such Curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him. Removal of manager and guardians.

(*2*) The Court may also for any sufficient cause, remove any guardian of the person of the lunatic appointed by it, and may appoint any other fit person in his place.

(*3*) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him, and may appoint any other fit person in place of such manager or guardian; and the District Court, on the application of the Collector, may compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realize such fine as if it were a sum due under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property. Penalty on manager for refusing to deliver accounts or property.

82. (*1*) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs. Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.

(*2*) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

83. An appeal shall lie to the High Court from any order made by a District Court, under this Chapter. Appeals.

(Part IV.—Miscellaneous. Chapter VI.—Establishment of Asylums. Chapter VII.—Expenses of Lunatics.)

PART IV.

Miscellaneous.

CHAPTER VI.

ESTABLISHMENT OF ASYLUMS.

Local Government may establish or license the establishment of asylums.

84. The Local Government may establish or license the establishment of asylums at such places as it thinks fit [1][if it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases.]

Power to cancel licence if provision for curative treatment is insufficient.

[2][**84A.** If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient, the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence.]

Provision for admission of lunatics in asylums outside a province.

[3][**85.** The Magistrates or Courts exercising jurisdiction in any province may send lunatics or any class of lunatics to any asylum situate in any other province in accordance with any general or special order[4] of the Local Government made in that behalf with the consent of the Local Government of such other province.]

CHAPTER VII.

EXPENSES OF LUNATICS.

Payment of cost of maintenance in licensed asylums in certain cases by Government.

86. (*1*) When any lunatic is admitted to a licensed asylum under a reception order or an order under section 25, and no engagement has been taken from the friends or relatives of the lunatic or order made by the Court for the payment of expenses under the provisions of this Act, the cost of maintenance of such lunatic shall, subject to the provision of any law for the time being in force, be paid by the Government to the person in charge of such asylum.

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1 These words were added by s. 3 of the Indian Lunacy (Amendment) Act, 1922 (6 of 1922).

2 This section was inserted by s. 4 of *ibid.*

3 This section was substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

4 For Notification *see* General Statutory Rules and Orders, Vol. IV, pp. 344-345.

(2) The paymaster of the military circle within which any asylum is situated shall pay to the officer in charge of such asylum the cost of maintenance of every lunatic received and detained therein under an order made under section 12.

87. Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any moveable property found on the person of the lunatic may be sold by the Magistrate, and the proceeds thereof similarly applied

Application of property in the possession of a lunatic found wandering.

88. If a lunatic detained in an asylum on a reception order made under section 14, section 15 or section 17 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force may apply to the High Court or District Court within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

Application to Civil Court for order for the payment of cost of maintenance out of the lunatic's estate, or by person bound to maintain him.

89. (*1*) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person.

Order of Court and enforcement thereof.

(*2*) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

[1][**89A.** The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable, and the proportions in which

Fixation of cost of maintenance.

[1] Sections 89A and 89B were inserted by s. 5 of the Indian Lunacy (Amendment) Act, 1922 (6 of 1922).

such amount shall be payable respectively by the Local Governments so liable. Any such amount may include charges on account of the upkeep of the asylum and of the capital cost of the establishment of the asylum.

Incidence of costs of maintenance payable by Government.

89B. *(1)* When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable—

(a) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25, as the case may be, was made; and

(b) in the case of a lunatic domiciled in British India, by the Local Government of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25, as the case may be, was made; or, if the lunatic has not been resident in any one province for such period, by the Local Government of the province in which such order was made.

(2) If any question arises as to the incidence of the cost of maintenance of any lunatic under sub-section *(1)*, the question shall be referred to the Governor General in Council, and his decision thereon shall be final.]

Saving of liability of relatives to maintain lunatic.

90. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

CHAPTER VIII.

RULES.

Power of Local Government to make rules.

91. *(1)* [1]* * * The Local Government may make rules[2] for all or any of the following purposes, namely:—

(a) to prescribe forms for any proceeding under this Act other than a proceeding before a High Court which is or may hereafter be established under the Indian High Courts Acts, 1861 to 1911; 24 & 25 Vict., c. 104 to 1 & 2 Geo. 5, c. 18.

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1 The words "Subject to the control of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

2 For rules made for Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, p. 438. For rules made for Bombay, *see* Bombay Local Rules and Orders, 1924, Vol. II, p. 701.

For U. P., *see* U. P. Gazette, 1914, Pt. I, p. 603; for Assam, *see* Assam Gazette, 1917, Pt. II, p. 907.

(*b*) to prescribe places of detention and regulate the care and treatment of persons detained under section 8 or section 16;

(*c*) to regulate the [1][detention], care, treatment and discharge of criminal lunatics;

(*d*) to regulate the management of asylums and the care and custody of the inmates thereof and their transfer from one asylum to another;

(*e*) to regulate the transfer of criminal lunatics to asylums;

(*f*) to prescribe the procedure to be followed by District Courts and Magistrates before a lunatic is sent to any asylum established by Government;

(*g*) to prescribe the asylums established by Government within the province to which lunatics from any area or any class of lunatics shall be sent;

(*h*) to prescribe conditions subject to which asylums may be licensed;

(*i*) save as otherwise provided in this Act, generally to carry into effect the provisions of the Act.

(2) In making any rule under this section, the Local Governments may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

Publication of rules.

92. All rules made under section 91 shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

Penalty for improper reception or detention of lunatic.

93. Any person who—

(*a*) otherwise than in accordance with the provisions of this Act receives or detains a lunatic or alleged lunatic in an asylum, or

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1 This word was substituted for the word "confinement" by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (11 of 1923).

(*b*) for gain detains two or more lunatics in any place not being an asylum,

shall be punishable with imprisonment which may extend to two years or with fine or with both.

Provisions as to bonds.

94. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. **V of 1898.**

Pension of lunatic payable by Government.

95. (*1*) When any sum is payable in respect of pay, pension, gratuity, or other similar allowance to any person by Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof, as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

(*2*) The Secretary of State for India in Council shall be discharged of all liability in respect of any amounts paid in accordance with this section.

Use of forms in Schedule.

96. Subject to any rules, the forms set forth in the First Schedule, with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

Protection to persons acting under Act.

97. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to give effect to warrants and orders of certain Courts outside British India.

98. Any officer in charge of an asylum may give effect to any order or warrant for the reception and detention of any lunatic made or issued by any Court or tribunal beyond the limits of British India in the exercise of jurisdiction conferred by His Majesty or the Governor General in Council.

Power to make rules for reception of lunatics received from outside British India.

99. The [1][Local Government] may make rules[2] regulating the procedure for the reception and detention in asylums in [3][the province] of lunatics whose reception and detention are provided for by section 98.

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[1] These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] For rules, *see* General Statutory Rules and Orders, Vol. IV, pp. 345-352.

[3] These words were substituted for the words "British India" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(*Part IV.—Miscellaneous. Chapter IX.—Supplemental Provisions.*)

Orders under repealed Act.

100. (*1*) In the case of orders made before the commencement of this Act under section 7 of the [1]Indian Lunatic Asylums Act, 1858, for the reception of persons into an asylum the persons who signed the order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who has signed an order, under section 7 of the [1]Indian Lunatic Asylums Act, 1858, before the commencement of this Act as if the order had been made after the commencement of this Act upon a petition presented by him.

XXXVI of 1858.

XXXVI of 1858.

(*2*) All orders for the detention of lunatics made and all undertakings given under any enactment hereby repealed shall have the same force and effect as if they had been made or given under this Act and by or to the authority empowered thereby in such behalf.

101. [*Repeal of enactments.*] *Repealed by s. 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914).*

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[1] Repealed by the Indian Lunacy Act, 1912 (4 of 1912).

(Schedule I.—Forms.)

SCHEDULE I.

FORMS.

(See section 96.)

FORM 1.

Application for Reception Order.

(See sections 5 and 6.)

In the matter of A. B.[1], residing at , by occupation , son of ; a person alleged to be a lunatic.

To Presidency Magistrate, for [*or* District Magistrate of , *or* Sub-Divisional Magistrate of *or* Magistrate specially empowered under Act IV of 1912 for].

The petition of C. D.[1], residing at , by occupation , son of , in the town of [*or* sub-division of in the district of].

1. I am [2] years of age.

2. I desire to obtain an order for the reception of A. B. as a lunatic in the asylum of situate at [3].

3. I last saw the said A. B. at on the [4] day of

4. I am the [5] of the said A. B.

[*or if the petitioner is not a relative of the patient state as follows.*]

I am not a relative of the said A. B. The reasons why this petition is not presented by a relative are as follows: [*State them.*]

The circumstances under which this petition is presented by me are as follows: [*State them*].

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[1] Full name, caste and titles.

[2] Enter the number of completed years. The petitioner must be at least eighteen or twenty-one whichever is the age of majority under the law to which the petitioner is subject.

[3] Insert full description of the name and locality of the asylum or the name, address and description of the person in charge of the asylum.

[4] A day within 14 days before the date of the presentation of the petition is requisite.

[5] Here state the relationship with the patient.

(Schedule I.—Forms.)

5. The persons signing the medical certificates which accompany the petition are [1].

6. A statement of particulars relating to the said A. B. accompanies this petition.

7. [*If that is the fact*.] An application for an inquiry into the mental capacity of the said A. B. was made to the on the and a certified copy of the order made on the said petition is annexed hereto.

[*Or if that is the fact.*]

No application for an inquiry into the mental capacity of the said A. B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraphs are true to my knowledge; the other statements are true to my information and belief.

(Sd.) C. D.

Dated

Statement of particulars.

[*If any of the particulars in this statement is not known, the fact to be so stated.*]

The following is a statement of particulars relating to the said A. B.

Name of patient at length.

Sex and age.

Married, single or widowed.

Previous occupation.

Caste and religious belief, as far as known.

Residence at or immediately previous to the date hereof.

Names of any near relatives to the patient who are alive.

Whether this is first attack of lunacy.

Age (if known) on first attack.

When and where previously under care and treatment as a lunatic.

Duration of existing attack.

[1] Here state whether either of the persons signing the medical certificate is a relative, partner or assistant of the lunatic or of the petitioner and, if a relative of either, the exact relationship.

(*Schedule I.—Forms.*)

Supposed cause.

Whether the patient is subject to epilepsy

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease.

Whether dangerous to others, and in what way.

Whether any near relative (stating the relationship) has been afflicted with insanity.

Whether the patient is addicted to alcohol, or the use of opium, ganja, charas, bhang, cocaine or other intoxicant.

[The statements contained or referred to in paras. are true to my knowledge. The other statements are true to my information and belief.]

[*Signature by person making the statement.*]

FORM 2.

Reception Order on Petition.

(*See sections 7, 10.*)

I, the undersigned E. F., being a Presidency Magistrate of [*or* the District Magistrate of *or* the Sub-Divisional Magistrate of *or* a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under Act IV of 1912] upon the petition of C. D. of [1] in the matter of A. B., [1] a lunatic, accompanied by the medical certificates of G. H., a medical officer, and of J. K., a medical practitioner [*or* medical officer], under the said Act, hereto annexed, hereby authorise you to receive the said A. B. into your asylum. And I declare that I have [*or* have not] personally seen the said A. B. before making this order.

(Sd.) E. F.

(*Designation as above.*)

To[2]

[1] Address and description.

[2] To be addressed to the officer or person in charge of the asylum.

(Schedule I.—Forms)

FORM 3.

Medical Certificate.

(See sections 18, 19.)

In the matter of A. B. of [1] in the town of [*or* the sub division of in the district of] an alleged lunatic.

I, the undersigned C. D., do hereby certify as follows :—

1. I am a gazetted medical officer [*or* a medical practitioner declared by Government to be a holder of [2] [*or* declared by Local Government to be a medical practitioner under Act medical officer under Act IV of 1912] IV of 1912] and I am in the actual practice of the medical profession.

2. On the day of 19 at [3] in the town/village of [*or* the sub-division of in the district of] [separately from any other practitioner] [4], I personally examined the said A. B. and came to the conclusion that the said A. B. is a lunatic and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, *viz.* :—

(*a*) Facts indicating insanity observed by myself, *viz.* :—

(*b*) Other facts (if any) indicating insanity communicated to me by others, *viz.* :—*Here state the information and from whom.*

(Sd.) C. D.
(Designation as above.)

FORM 4.

Reception Order in case of Lunatic Soldier.

(See section 12.)

Whereas it appears to me that A. B., a European, subject to the Army Act, who has been declared a lunatic in accordance with the provisions of the military regulations, should be removed to an asylum, I do hereby authorise you to receive the said A. B. into your asylum.

(Sd.) E. F.
(Administrative Medical Officer.)

To[5]

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[1] Insert residence of patient.
[2] Insert qualification to practise medicine and surgery registrable in the United Kingdom.
[3] Insert place of examination.
[4] Omit this where only one certificate is required.
[5] To be addressed to the person in charge of an asylum duly authorised by Government to receive lunatic Europeans subject to the Army Act.

(Schedule I.—Forms.)

FORM 5.

Reception order in case of wandering or dangerous lunatics or lunatics not under proper control or cruelly treated (sent to an asylum established by Government).

(See sections 14, 15, 17.)

I, C. D., Presidency Magistrate of [*or* Commissioner of Police for] [*or* the District Magistrate of *or* the Sub-divisional Magistrate of *or* a Magistrate specially empowered by Government under Act IV of 1912] having caused A. B. to be examined by E. F., a Medical Officer under the Indian Lunacy Act, 1912, and being satisfied that A. B. [*describing him*] is a lunatic who was wandering at large [*or* is a person dangerous by reason of lunacy] [*or* is a lunatic not under proper care and control *or* is cruelly treated or neglected by the person having the care or charge of him] and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B. into your asylum.

(Sd.) C. D.
(Designation as above.)

Dated the

To the Officer in charge of the asylum at .

FORM 6.

Same when sent to a licensed asylum.

I, C. D., [*as above down to* "care and treatment") and being satisfied with the engagement entered into in writing by G. H. of [*here insert address and description*] who has desired that the said A. B. may be sent to the asylum at [*here insert description of asylum and name of the person in charge*] to pay the cost of maintenance of the said A. B., in the said asylum, hereby authorize you to receive the said A. B. into your asylum.

(Sd.) C. D.
(Designation as above.)

Dated the

To the person in charge of the asylum at

(Schedule I.—Forms.)

FORM 7.

Bond on the making over of a lunatic to the care of relative or friend.

(See sections 14, 15, 17.)

Whereas A. B., son of , inhabitant of , has been brought up before C. D., a Presidency Magistrate for the town of [or Commissioner of Police for] [or the District/Sub-Divisional Magistrate of , or a Magistrate of the first class specially empowered under Act IV of 1912] and is a lunatic who is believed to be dangerous [*or* deemed to be a lunatic who is not under proper care and control *or* is cruelly treated or neglected by the person having the charge of him] and whereas I, E. F., son of , inhabitant of , have applied to the Magistrate [*or* Commissioner of Police], that the said A. B. may be delivered to my care :

I, E. F., abovenamed hereby bind myself that on the said A. B. being made over to my care, I will have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India, the sum of rupees .

Dated this day of 19 .

(Sd.) E. F.

(*Where a bond with sureties is to be executed add*)—We do hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being made over to his care, have the said A. B. properly taken care of and prevented from doing injury to himself or to others; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees .

Dated this day of 19 .

(Signature.)

(Schedule I.—Forms.)

FORM 8.

Bond on the discharge of a lunatic from an asylum on the undertaking of relative or friend to take due care.

(See section 33.)

Whereas A. B., son of , inhabitant of , is a lunatic who is now detained in the asylum at under an order made by C. D., a Presidency Magistrate for the town of [*or* Commissioner of Police for] [*or* the District/Sub-Divisional Magistrate of , *or* a Magistrate of the first class specially empowered under Act IV of 1912] under section 14 [*or* section 15] of Act IV of 1912, and whereas I, E. F., son of , inhabitant of , have applied to the said Magistrate [*or* Commissioner of Police] that the said A. B. may be delivered to my care and custody :

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others; and in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India the sum of rupees .

Dated this day of 19 .

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being delivered to his care and custody, have the said A. B. properly taken care of and prevented from doing injury to himself or to others; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees .

Dated this day of 19 .

(Signature.)

[SCHEDULE II.—Enactments Repealed.] Repealed by s. 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914.)

THE PROVIDENT INSURANCE SOCIETIES ACT, 1912.

CONTENTS.

ACT No. V OF 1912.[1]

[*18th March, 1912.*]

An Act to provide for the regulation of Provident Insurance Societies.

WHEREAS it is expedient to provide for the regulation of Provident Insurance Societies; It is hereby enacted as follows:—

Preliminary.

Short title and extent. **1.** (*1*) This Act may be called the Provident Insurance Societies Act, 1912; and

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.[2]

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction:

(*2*) "financial year" means each period of twelve months at the end of which the balance of the accounts of any Provident Insurance Society is struck, or, if no such balance is struck, then the calendar year:

(*3*) "life assurance business" means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life:

(*4*) "policy of assurance on human life" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life:

(*5*) "policy-holder" means the person who for the time being is the legal holder of the policy for securing the contract with the Provident Insurance Society:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 184; for Report of Select Committee, *see ibid*, 1912, Pt. V, p. 49; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, p. 696, and *ibid*, 1912, Pt. VI, pp. 7, 152 and 457.

[2] The Act has been declared to be in force in the Arakan Hill District by s. 2 of Regulation 1 of 1916, *see* Burma Code, Vol. I.

(Preliminary. General.)

(6) where a Provident Insurance Society grants annuities upon human life, "policy" includes the instrument evidencing the contract to pay such an annuity, and "policy-holder" includes annuitant:

(7) "prescribed" means prescribed by rules made under this Act:

(8) "Provident Insurance Society" means any person who, or body of persons whether corporate or unincorporate which, receives premiums or contributions for insuring money to be paid on the birth, marriage or death of any person or on the happening of such other contingency or class of contingency as may be prescribed: and

(9) "Registrar" means any person who may be appointed[1] by the Local Government to perform the duties of the Registrar under this Act.

Application of Act.

3. Nothing in this Act shall apply to any Provident Insurance Society carrying on life assurance business, which undertakes to pay on any life assurance policy or series of life assurance policies on any one life, an annuity exceeding fifty rupees or a gross sum exceeding five hundred rupees, or which receives or undertakes to receive by way of premium or contribution for life assurance on any one life any sum exceeding two hundred and fifty rupees where the said premiums or contributions are payable for one year or a limited number of years, or exceeding twenty-five rupees in any one year where the premiums or contributions are unlimited in number and terminable on death or the occurrence of an uncertain event:

Provided that, in determining whether this Act applies to any Provident Insurance Society carrying on life insurance business, contracts entered into by the society before the commencement of this Act shall not be taken into consideration.

General.

Insurable interest.

4. No Provident Insurance Society shall receive any premium or contribution for insuring money to be paid on the death of any person

1 For notification appointing the Deputy Commissioner of Delhi to perform the duties of the Registrar, *see* Gazette of India, 1912, Pt. I, p. 1106.

For notification appointing 2nd Assistant to the Agent to the Governor General and Chief Commissioner of Baluchistan to perform the duties of Registrar, *see* Gazette of India, 1912, Pt. II, p. 1669.

For similar notification in Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, p. 439.

(General.)

other than the person paying such premium or contribution or the wife, husband, child, parent, brother or sister of such person.

Provision to be made by rules.

5. Every Provident Insurance Society shall, by its rules—

(*a*) specify the object, name and registered office of the society;

(*b*) prescribe the proportion of the annual income of the society derived from premiums or contributions which may be disbursed for the expenses of management of the society;

(*c*) in the case of a society which by rule or practice divides any part of the funds thereof, provide for the payment of all debts due by the society existing at the time of division before any such division has taken place; and

(*d*) provide for any other matters which may be prescribed.

Registration of Provident Insurance Societies.

6. (*1*) Every Provident Insurance Society shall, within three months from the commencement of this Act, or, if established after the commencement of this Act, before it receives any premium or contribution, apply to the Registrar for that part of British India in which the office of the society is situate for registration under this Act, and shall deliver to him a copy of the rules of the society.

(*2*) The Registrar shall, on being satisfied that such rules comply with the provisions of this Act, acknowledge the receipt of the rules and register the society and its rules.

(*3*) If the Registrar is not satisfied that the rules or any of them comply with the provisions of this Act, he shall send to the Provident Insurance Society a notice by post stating in what respect such rule or rules is or are not in accordance with the provisions of this Act, and calling upon such society to deliver to him an amended rule or rules within sixty days.

(*4*) On receipt of a notice under sub-section (3), the Provident Insurance Society may within sixty days deliver to the Registrar an amended rule or rules in conformity with this Act, and the Registrar shall thereupon acknowledge the receipt of the rules and register the society and its rules as hereinbefore provided.

Unregistered society not to receive premium or contribution.

7. No Provident Insurance Society shall receive any premium or contribution, unless it is registered in accordance with the provisions of this Act:

(*General.*)

Provided that this prohibition shall only apply to a society established before the commencement of this Act—

(*a*) when such society has applied for registration in accordance with the provisions of section 6, sub-section (*1*)—from the date of the order of the Registrar refusing registry ·

(*b*) when such society has not applied as aforesaid—after three months from the commencement of this Act.

8. (*1*) No amendment of any rule of a Provident Insurance Society shall be valid until the same has been registered under this Act, for which purpose a copy of the amended rule shall be sent to the Registrar. **Amendment of rules.**

(*2*) The Registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, issue to the society an acknowledgment of the registration of the same.

9. Every Provident Insurance Society shall, on demand, deliver free of cost to any member of the society a copy of the rules of the society, and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee. **Right to supply of copies of rules.**

10. Every Provident Insurance Society which is not registered under the [1]Indian Companies Act, 1882, shall cause to be kept in the prescribed form a register of the names and addresses of its members. **Register of members.** **VI of 1882.**

11. Where any notice, advertisement or other official publication of a Provident Insurance Society contains a statement of the amount of the authorized capital of the society, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up. **Publication of authorized subscribed and paid-up capital.**

12. Every Provident Insurance Society which is not registered under the [1]Indian Companies Act, 1882, shall have an office on the outside of which it shall display and keep displayed its name in a conspicuous position in legible letters, to which all communications and notices may be addressed, and shall give notice to the Registrar of the situation of such office and of any change therein. **Office.** **VI of 1882.**

13. Every Provident Insurance Society shall, at the expiration of each financial year, prepare a revenue-account and balance-sheet in the prescribed form and verified in the prescribed manner, and shall cause **Revenue-account and balance-sheet.**

[1] *See* now the Indian Companies Act, 1913 (7 of 1913).

(*General.*)

them to be audited by an auditor possessing the prescribed qualifications.

Delivery and publication of revenue-account, etc. **14.** Every Provident Insurance Society shall, within six months of the expiration of each financial year, deliver to the Registrar the revenue-account and balance-sheet required by section 13, and shall publish them in the prescribed manner.

Record of insurances effected on life other than life of person insuring. **15.** Every Provident Insurance Society shall maintain in the prescribed form a record of every insurance effected on a life other than the life of the person insuring, and shall deliver a copy of such record to the Registrar, together with the balance-sheet and revenue-account.

Inspection of books. **16.** The books of every Provident Insurance Society shall at all reasonable hours be open to inspection by the Registrar, or by any person appointed by him in this behalf or by any member of the society.

Inquiry. **17.** (*1*) The Registrar may, if he thinks fit, of his own motion, and shall, upon the application of ten or more members or policy-holders of a Provident Insurance Society, hold or direct an inquiry to be held by an actuary possessing the prescribed qualifications appointed by him by order in writing in this behalf as to the solvency of any Provident Insurance Society or as to the manner in which the business of any such society is conducted.

(*2*) An application to the Registrar under sub-section (*1*) shall be supported by such evidence as the Registrar may require for the purpose of showing that the applicants have good reason for applying for an inquiry.

(*3*) The Registrar may require the applicants under sub-section (*1*) to give such security as he thinks fit for the costs of the proposed inquiry before such an inquiry is held.

(*4*) All expenses of, and incidental to or preliminary to, any inquiry made on application as aforesaid shall be defrayed by the applicants therefor or out of the funds of the society or by the members or officers of the society in such proportions as the Registrar may direct by order in writing.

(*5*) An order made under sub-section (*4*) shall on application be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such Court.

(6) A person holding an inquiry under this section shall have access to all the books and documents of the society, and shall have power to call upon the society and the officers of the society to furnish such statements and other information in relation to its business as he may direct.

(7) The result of the inquiry shall be communicated to the society and to the applicants (if any).

18. When an inquiry has been held under section 17, the Registrar may, if he is satisfied— **Cancellation of registry.**

(a) that the society is insolvent, or must necessarily become so, or

(b) that the business of any such society is conducted fraudulently or not in accordance with the rules thereof,

after giving previous notice in writing in such manner as he thinks fit specifying briefly the grounds of the proposed cancellation, cancel the registry of the society.

19. (1) Where the registry of a Provident Insurance Society is cancelled in accordance with the provisions of section 18, the Registrar may appoint a liquidator to wind up the society. **Liquidators.**

(2) A liquidator appointed under sub-section (1) shall have power—

(a) to institute or defend any legal proceedings on behalf of the society by his name of office;

(b) to determine the contribution to be made by members of the society, respectively, to the assets of the society;

(c) to investigate all claims against the society and to decide questions of priority arising between claimants;

(d) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and

(e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(3) Subject to any rules of procedure made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary to carry out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the

production of documents by the same means and as far as may be in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. **V of 1908.**

(4) Orders made under this section shall on application be enforced as follows:—

(a) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as a decree of such Court;

(b) when made by the Court on appeal, in the same manner as a decree of the Court.

Appeals.

Appeals.

20. (1) An appeal shall lie to the Court within thirty days—

(a) from an order of the Registrar refusing to register a Provident Insurance Society or any rules or amendments of rules of such society;

(b) from an order of the Registrar cancelling the registry of a society;

(c) from an order made by a liquidator appointed under section **19.**

(2) Save as hereinbefore expressly provided, orders made under this Act shall be final and conclusive.

Offences and Procedure.

Penalty for non-compliance with Act.

21. Any Provident Insurance Society which makes default in complying with any of the requirements of this Act, and every director, manager or secretary or other officer or agent of the society, who is knowingly a party to the default, shall be punishable with fine which may extend to five hundred rupees, or, in the case of a continuing default, with fine which may extend to two hundred and fifty rupees for every day during which the default continues.

Penalty for falsifying documents.

22. If any register, account, balance-sheet or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Cognizance of offences.

23. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

Rules.

24. (*1*) The Local Government may make rules to carry out the purposes of this Act. **Rules.**

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) contingencies or classes of contingencies and thereby extend the application of this Act to the receipt of premiums or contributions for insuring money to be paid on the happening of such contingencies or class of contingencies;

(*b*) the matters in respect of which a society shall make rules;

(*c*) the form of any account, return or register required by this Act, and the manner in which any such account, return or register shall be verified;

(*d*) the fees to be charged for matters transacted under this Act, and the manner in which the same are to be collected;

(*e*) the qualifications of auditors and actuaries under this Act;

(*f*) the manner in which any document required to be published by this Act shall be published; and

(*g*) the procedure to be followed by liquidators under this Act.

(*3*) The power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted therein.

Miscellaneous.

25. No policy effected before the commencement of this Act with a Provident Insurance Society shall be deemed to be void by reason only that the insurance is not authorized by this Act. **Saving of existing policies.**

26. The Local Government may, by notification in the local official Gazette, and subject to such conditions and restrictions as it thinks fit, exempt any Provident Insurance Society or class of Provident Insurance Societies from all or any of the provisions of this Act. **Power of Local Government to exempt from provisions of the Act.**

THE INDIAN LIFE ASSURANCE COMPANIES ACT, 1912.

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(Preliminary.)

ACT No. VI OF 1912[1].

[18th March, 1912.]

An Act to provide for the regulation of Life Assurance Companies.

WHEREAS it is expedient to provide for the regulation of life assurance companies: It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Indian Life Assurance Companies Act, 1912. **Short title and extent.**

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.[2]

2. In this Act, unless there is anything repugnant in the subject or context, **Definitions.**

(1) "actuary" means an actuary possessing such qualifications as may be prescribed by rules made by the Governor General in Council:

(2) "chairman" means the person for the time being presiding over the board of directors or other governing body of a life assurance company:

(3) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction:

(4) "financial year" means each period of twelve months at the end of which the balance of the accounts of the life assurance company is struck, or, if no such balance is struck, then the calendar year:

(5) "life assurance business" means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life:

(6) "policy of assurance on human life" means any instrument by which the payment of money is assured on death (except death by

1 For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p 181; for Report of Select Committee, *see ibid*, 1912, Pt. V, p. 27; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, p. 694, and *ibid*, 1912, Pt. VI, pp. 7, 151 and 432.

2 The Act has been declared in force in the Arakan Hill District by s. 2 of Regulation I of 1916, *see* Burma Code, Vol. I.

accident only) or the happening of any contingency dependent on human life or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life:

(*7*) "policy-holder" means the person who for the time being is the legal holder of the policy for securing the contract with the life assurance company.

(*8*) where a company grants annuities upon human life, "policy" includes the instrument evidencing the contract to pay such an annuity, and "policy-holder" includes annuitant: and

(*9*) "Registrar" means any person who may be [1]appointed by the Local Government to perform the duties of the Registrar under this Act.

Companies to which Act applies.

3. Save as hereafter expressly provided, this Act shall apply to all persons or bodies of persons, whether corporate or unincorporate (which persons and bodies of persons are hereafter referred to as life assurance companies), whether established before or after the commencement of this Act and whether established within or without British India, who carry on life assurance business within British India.

Explanation.—A company registered under the [2]Indian Companies Act, 1882, which carries on life assurance business in any part of the world shall for the purposes of this section be deemed to be a company carrying on such business within British India. **VI of 1882.**

Exception.—Nothing in this Act shall apply to any society to which the Provident Insurance Societies Act, 1912, applies or to any Fund which the Governor General in Council may, by notification in the Gazette of India, exempt from the operation of this Act. **V of 1912.**

Deposits.

Deposits.

4. (*1*) Every life assurance company shall, if established before the commencement of this Act, within one year from such commencement, or, if established after such commencement, before it commences to carry on the business of life assurance, deposit and keep deposited

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[1] For notification appointing the Deputy Commissioner of Delhi to perform the duties of the Registrar, *see* Gazette of India, 1912, Pt. I, p. 1106.

For notification appointing Revenue Commissioner in Baluchistan to perform the duties of Registrar, *see* Gazette of India, 1912, Pt. II, p. 1314.

For notification appointing an officer to perform similar duties in Madras, *see* Madras Local Rules and Orders, 1923, Vol I, p. 439.

[2] See now the Indian Companies Act, 1913 (7 of 1913).

with the [1][Controller of Currency], for and on behalf of the Governor General in Council, Government securities, as defined by the [2]Indian Securities Act, 1886, of the face value of twenty-five thousand rupees or of a face value equal to one-third of the income derived from life assurance business as shown in the revenue account for the last financial year, whichever is greater, and, until the company keeps deposited securities of the face value of two hundred thousand rupees, shall annually deposit and keep deposited in like manner like securities of a face value—

XIII of 1886.

(a) equal to one-third of the income derived from life assurance business as shown in the revenue account for the last financial year, until the face value of the securities deposited exceeds one hundred thousand rupees;

(b) and thereafter equal in amount to one-third of the increase to the life assurance fund as shown in the revenue account for the last financial year:

Provided that a company may at any time deposit securities of a face value of two hundred thousand rupees or make up its deposit of securities to that value.

(2) The interest accruing due on the securities deposited under sub-section (1) shall be paid to the company.

(3) The deposit may be made by the subscribers of the memorandum of association of a company or any of them, in the name of a proposed company and, upon the incorporation of the company, shall be deemed to have been made by, and to be part of the assets of, the company, and the Registrar of Joint Stock Companies shall not issue a certificate of incorporation of the company under the [3]Indian Companies Act, 1882, until the deposit has been made.

VI of 1882.

(4) The deposit shall be deemed to form part of the life assurance fund of the company.

Accounts and Documents.

Separation of funds.

5. In the case of a life assurance company transacting other business besides that of life assurance, a separate account shall be kept of all

[1] These words were substituted for the words "Comptroller General" by s. 2 of the Indian Life Assurance Companies (Amendment) Act, 1914 (13 of 1914).
[2] *See* now the Indian Securities Act, 1920 (10 of 1920).
[3] *See* now the Indian Companies Act, 1913 (7 of 1913).

(Accounts and Documents.)

receipts in respect of the life assurance business, and the said receipts shall be carried to and form a separate fund to be called the life assurance fund.

Explanation.—Nothing in this section shall be deemed to require any life assurance fund to be invested in separate investments from any other fund, but a separate balance-sheet as prescribed under section 7 shall be kept in respect of the life assurance fund.

Exception.—Nothing in this section shall apply to a life assurance company established before the commencement of this Act, by the terms of whose deed of settlement the whole of the profits of all the business carried on by the company are paid exclusively to the life policy-holders, and on the face of whose life policies the liability of the life assurance fund in respect of the other business distinctly appears.

Appropriation of life assurance fund.

6. The life assurance fund shall be as absolutely the security of the life policy-holders as though it belonged to a company carrying on no other business than life assurance business, and shall not be liable for any contracts of the company for which it would not have been liable had the business of the company been only that of life assurance, and shall not be applied, directly or indirectly, for any purposes other than those of life assurance.

Exception.—Nothing in this section shall affect the liability of the life assurance fund, in the case of a company established before the commencement of this Act, for contracts entered into by the company before such commencement.

Accounts and balance sheets.

7. Every life assurance company shall, at the expiration of each financial year, prepare—

(*a*) a revenue account for the year in the form or forms set forth in the First Schedule and applicable to the class or classes of business carried on by the company;

(*b*) a profit and loss account in the form set forth in the Second Schedule, except where the company carries on life assurance business only and no other business;

(*c*) a balance-sheet or balance-sheets in the form or forms set forth in the Third Schedule;

(*Accounts and Documents*)

(*d*) a statement containing the name of every person who during the year was a member of the board of directors or other governing body or was manager or secretary or held any similar office by whatever name called

8. (*1*) Every life assurance company shall once in every five years, or at such shorter intervals as may be prescribed by the instrument constituting the company, or by its regulations or bye-laws, cause an investigation to be made into its financial condition, including a valuation of its liabilities, by an actuary, and shall cause an abstract of the report of such actuary to be made in the form set forth in the Fourth Schedule. **Actuarial reports and abstract.**

(*2*) The provision of sub-section (*1*) regarding the making of an abstract shall also apply whenever at any other time an investigation into the financial condition of a life assurance company is made with a view to the distribution of profits, or whenever the results of any such investigation are made public.

9. In the case of a mutual life assurance company whose profits are allocated to members wholly or mainly by annual abatements of premium, the abstract of the report of the actuary on the financial condition of the company prepared in accordance with the Fourth Schedule, may, notwithstanding anything in section 8, be made and returned at intervals not exceeding five years: Provided that, where such return is not made annually, it shall include particulars as to the rates of abatement of premiums applicable to different classes or series of assurances allowed in each year during the period which has elapsed since the previous return under the Fourth Schedule. **Actuarial abstract in case of mutual company.**

10. Every life assurance company shall, within three years from the commencement of this Act, and thereafter at the date to which the accounts of the company are made up for the purposes of the investigation prescribed by section 8, prepare a statement of its assurance business in the form set forth in the Fifth Schedule: Provided that, if the investigation is made annually by any company, the company may prepare such a statement at any time, so that it be made at least once in every five years. **Statement of life assurance business.**

11. (*1*) Every account, balance-sheet, abstract or statement hereinbefore required to be made shall be printed, and four copies thereof, one of which shall be signed by the chairman and two directors of the company, and by the principal officer of the company, and if the com- **Deposit of accounts, etc., with Governor General in Council.**

(*Accounts and Documents.*)

pany has a managing director, by the managing director, shall be deposited with the Governor General in Council within six months in the case of accounts and balance-sheets required by section 7, and within one year in other cases after the close of the period to which the account, balance-sheet, abstract or statement relates Provided that, if in any case it is made to appear to the Governor General in Council that the circumstances are such that a longer period should be allowed, he may extend that period by such period as he may think fit

(2) The Governor General in Council shall consider any document deposited in accordance with the provisions of sub-section (1) and, if any such document appears to the Governor General in Council to be inaccurate or defective in any respect, the Governor General in Council may call upon the company to furnish a further statement correcting any such inaccuracies or supplying any such deficiencies.

Deposit of report.

12. There shall be deposited with every revenue-account and balance-sheet of a life assurance company every report on the affairs of the company submitted to the shareholders or policy-holders of the company in respect of the financial year to which the account and balance-sheet relate

Exemption from certain provisions of Act VI of 1882.

13. Where a life assurance company registered under the [1]Indian Companies Act, 1882, in any year deposits its accounts and balance-sheet **VI of 1882.** in accordance with the provisions of section 11, the company may, at the same time, send to the Registrar of Joint Stock Companies a copy of such accounts and balance-sheet, and, where such copy is so sent, it shall not be necessary for the company to file a balance-sheet with the Registrar of Joint Stock Companies as required by section 74 of the [1]Indian Companies Act, 1882, and the copy of the accounts and balance- **VI of 1882.** sheet so sent shall be dealt with in all respects as if it were a balance-sheet filed in accordance with that section.

Right of share-holders, etc., to copies of accounts, etc.

14. A printed copy of the accounts, balance-sheet, abstract or statement last deposited shall, on the application of any shareholder or policy-holder of the company, be forwarded to him by the company by post or otherwise.

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[1] *See* now the Indian Companies Act, 1913 (7 of 1913).

(Accounts and Documents.)

15. The accounts of every life assurance company shall be audited annually in such manner as the Governor General in Council may prescribe

Audit of Accounts.

16. Every life assurance company which is not registered under the [1]Indian Companies Act, 1882, shall keep a list of the names and addresses of its shareholders, and shall, on the application of any shareholder or policy-holder of the company, furnish to him a copy of such list on payment of a sum not exceeding two annas for every hundred words required to be copied.

VI of 1882. **List of share-holders.**

17. Every life assurance company which is not registered under the [1]Indian Companies Act, 1882, shall cause a sufficient number of copies of its deed of settlement or other instrument constituting the company to be printed, and shall, on the application of any shareholder or policy-holder of the company, furnish to him a copy of such deed of settlement or other instrument on payment of a sum not exceeding one rupee.

VI of 1882. **Deed of Settlement.**

18. Where any notice, advertisement or other official publication of a life assurance company contains a statement of the amount of the authorised capital of the company, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

Publication of authorised as well as subscribed and paid-up capital.

19. (*1*) Every life assurance company, constituted outside British India, which establishes a place of business within British India, or appoints an agent in British India with the object of obtaining life assurance business, shall, within three months from the establishment of the place of business or the appointment of such agent, file with the Registrar—

Requirements as to companies established outside British India.

(*a*) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(*b*) a list of the directors of the company;

(*c*) the names and addresses of some one or more persons resident in British India authorised to accept on behalf of the company service of process and any notices required to be served on the company;

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1 *See* now the Indian Companies Act, 1913 (7 of 1913).

and, in the event of any alteration being made in any such instrument or in the list of directors or in the names and addresses of such persons as aforesaid, the company shall, within such time as the Governor General in Council may prescribe, file with the Registrar a notice of the alteration.

(*2*) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(*3*) There shall be paid to the Registrar for registering any document, required by this section to be filed, a fee of five rupees or such smaller fee as the Governor General in Council may prescribe.

Amalgamation or Transfer.

Amalgamation or transfer.

20. (*1*) Where it is intended to amalgamate two or more life assurance companies, or to transfer the life assurance business of one company to another, the directors of any one or more of such companies may apply to the Court, by petition, to sanction the proposed arrangement.

(*2*) Before any such application is made to the Court—

(*a*) notice of the intention to make the application shall be published in the Gazette of India and in the local official Gazette of the Province in which the principal place of business of the company is situate at least two months before the application is made;

(*b*) a statement of the nature of the amalgamation or transfer, as the case may be, together with an abstract containing the material facts embodied in the agreement or deed under which the amalgamation or transfer is proposed to be effected, and copies of the actuarial or other reports upon which the agreement or deed is founded, including a report by an independent actuary, shall, unless the Court otherwise directs, be transmitted to each policy-holder of each company; and

(Amalgamation or Transfer.)

(c) the agreement or deed under which the amalgamation or transfer is effected shall be open for the inspection of the policy-holders and shareholders at the offices of the companies for a period of fifteen days after the last publication of the notice

(3) The Court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may sanction the arrangement if it is satisfied that no sufficient objection to the arrangement has been established

(4) The Court shall not sanction the amalgamation or transfer in any case in which it appears to the Court that the life policy-holders representing one-tenth or more of the total amount assured in any company which it is proposed to amalgamate, or in any company the business of which it is proposed to transfer, dissent from the amalgamation or transfer.

(5) No life assurance company shall amalgamate with another, or transfer its business to another, unless the amalgamation or transfer is sanctioned by the Court in accordance with this section.

21. Where an amalgamation takes place between any life assurance companies, or where any life assurance business of one such company is transferred to another company, the combined company or the purchasing company, as the case may be, shall, within one month from the date of the completion of the amalgamation or transfer, deposit with the Governor General in Council— **Statement in case of amalgamation or transfer.**

(a) certified copies of statements of the assets and liabilities of the companies concerned in such amalgamation or transfer, together with a statement of the nature and terms of the amalgamation or transfer; and

(b) a certified copy of the agreement or deed under which the amalgamation or transfer is effected; and

(c) certified copies of the actuarial or other reports upon which that agreement or deed is founded; and

(d) a declaration under the hand of the chairman of each company, and the principal officer of each company, that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer

is therein fully set forth, and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer.

Winding-up

Special provisions as to winding-up of assurance companies.

22. The Court may order the winding-up of a life assurance company, in accordance with the [1]Indian Companies Act, 1882, and the provisions of that Act shall apply accordingly, subject, however, to the modification that the company may be ordered to be wound up— **VI of 1882.**

(*a*) on the petition of ten or more policy-holders:

Provided that such a petition shall not be presented except by the leave of the Court, and leave shall not be granted until a *prima facie* case has been established to the satisfaction of the Court, and until security for costs for such amount as the Court may think reasonable has been given; or

(*b*) on application made on behalf of the Governor General in Council, showing that from a consideration of the documents deposited with him under the provisions of this Act it appears to him that the company is insolvent.

Winding-up of subsidiary companies.

23. (*1*) Where a life assurance business or any part of the life assurance business of a life assurance company has been transferred to another company under an arrangement in pursuance of which the first-mentioned company (in this section called the subsidiary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section called the principal company), then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the subsidiary company to be wound up in conjunction with the principal company, and may by the same or any subsequent order appoint the same person to be liquidator for the two companies, and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

[1] *See* now the Indian Companies Act, 1913 (7 of 1913).

(*Winding-up.*)

(2) The commencement of winding-up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding-up of the subsidiary company.

(3) In adjusting the rights and liabilities of the members of the several companies between themselves, the Court shall have regard to the constitution of the companies, and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding-up of a single company, or as near thereto as circumstances admit.

(4) Where any company alleged to be subsidiary is not in process of being wound up at the same time as the principal company to which it is subsidiary, the Court shall not direct the subsidiary company to be wound up unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is subsidiary to the principal company, and that the winding-up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding-up of any subsidiary company in conjunction with a principal company by any creditor of, or person interested in, the principal or subsidiary company.

(6) Where a company stands in the relation of a principal company to one company, and in the relation of a subsidiary company to some other company, or where there are several companies standing in the relation of subsidiary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

Valuation of annuities and policies.

24. Where a life assurance company is being wound up by the Court, or subject to the supervision of the Court, or voluntarily, the value of a policy or of a liability under a policy requiring to be valued in such winding-up shall be estimated in manner applicable to policies and liabilities provided by the Sixth Schedule.

Rules of valuation.

25. The rules in the Sixth Schedule shall be of the same force, and may be repealed, altered or amended as if they were rules made in pur-

suance of section 254 of the [1]Indian Companies Act, 1882, and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding-up of life assurance companies. **VI of 1882.**

Power to Court to reduce contracts.

26. The Court, in the case of a life assurance company which has been proved to be unable to pay its debts, may, if it thinks fit, reduce the amount of the contracts of the company upon such terms and subject to such conditions as it thinks just, in place of making a winding-up order.

Special Provisions relating to Accounts and Documents.

Custody and inspection of documents deposited with Governor General in Council.

27. [2]The Governor General in Council may direct any documents deposited with him under this Act, or certified copies thereof, to be kept by the Registrar or by any other officer appointed in this behalf, and any such documents and copies shall be open to inspection, and copies thereof may be procured by any person on payment of such fees as the Governor General in Council may direct.

Accounts, etc., to be published.

28. The Governor General in Council shall annually [3][cause to be published, in such manner as he may direct, a summary of] the accounts, balance-sheets, abstracts, statements and other documents under this Act, or purporting to be under this Act, deposited with him during the preceding year [4][by every life assurance company] except reports on the affairs of life assurance companies submitted to the shareholders or policy-holders thereof, and may append to [3][such summary] any note of the Governor General in Council thereon, and any correspondence in relation thereto.

Evidence of documents.

29. Every document deposited under this Act with the Governor General in Council, and certified by the Registrar or by any person appointed in that behalf by the Governor General in Council to be a document so deposited, shall be deemed to be a document so deposited.

Evidence of copies of documents.

30. Every document purporting to be certified by the Registrar, or by any person appointed in that behalf by the Governor General in Council, to be a copy of a document so deposited, shall be deemed to

[1] *See* now the Indian Companies Act, 1913 (7 of 1913).
[2] For rules under the section in conjunction with section 39, *see* General Statutory Rules and Orders, Vol. IV, p. 353.
[3] These words were substituted by s. 2 and Sch. I of the Repealing and Amending Act, 1917 (24 of 1917).
[4] These words were inserted by *ibid.*

be a copy of that document, and shall be received in evidence as if it were the original document unless some variation between it and the original document be proved.

Alteration of forms.

31. The Governor General in Council may, on the application or with the consent of a life assurance company, alter the forms contained in the Schedules to this Act as respects that company, for the purpose of adapting them to the circumstances of that company.

Companies carrying on business in the United Kingdom.

Certain companies may apply to be declared companies which carry on life assurance business in the United Kingdom.

9 Edw. VII, cap. 49.

32. (*1*) An assurance company which carries on life assurance business in the United Kingdom in accordance with the Assurance Companies Act, 1909, may, if carrying on life assurance business in British India before the commencement of this Act, within three months of such commencement, or, in any other case, before it commences to carry on life assurance business in British India, apply to the Governor General in Council for a [1]declaration that it so carries on such business in the United Kingdom.

(*2*) A company applying under the provisions of sub-section (*1*) shall furnish, at the time of its application or at such further time as the Governor General in Council may prescribe, such evidence as he may direct of the facts alleged in its application.

9 Edw. VII, cap. 49.

(*3*) Where the Governor General in Council is satisfied that a life assurance company applying as aforesaid is a life assurance company which carries on business in the United Kingdom in accordance with the Assurance Companies Act, 1909, he shall, by notification in the Gazette of India, make a declaration to that effect, and shall cause such notification to be republished in the local official Gazette of the Province where the company has or proposes to have its principal place of business.

Application of the Act to companies which carry on life assurance business in the United Kingdom.

33. Where the Governor General in Council has notified a declaration in accordance with the provisions of section 32 in respect of a life assurance company, nothing in section 4, section 5, sections 7 to 12, sections 15, 20, 21 or 37 shall apply to the company :

Provided that—

(*1*) the company shall deposit with the Governor General in Council, in the manner prescribed in section 11, copies of

1 For such a declaration in respect of certain companies, *see* General Statutory Rules and Orders, Vol. IV, pp. 371—374.

every account, balance-sheet, abstract, statement or other document which the company is required by the Assurance Companies Act, 1909, to deposit at the Board of Trade; **9 Edw. VII, cap. 49.**

(2) if, at any time, a company in respect of which a declaration has been notified under section 32 ceases to carry on life assurance business in the United Kingdom in accordance with the provisions of the Assurance Companies Act, 1909, it shall, if it continues to carry on life assurance business in British India, be subject to all the provisions of this Act from the date it ceased to carry on such business in the United Kingdom in accordance with the said Act **9 Edw. VII, cap. 49.**

Penalties and Procedure.

Penalty for non-compliance with Act.

34. Any life assurance company which makes default in complying with any of the requirements of this Act, and every director, manager, or secretary, or other officer or agent of the company who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees, or, in the case of a continuing default, with fine which may extend to five hundred rupees for every day during which the default continues; and, if default continues for a period of three months after notice of default by the Governor General in Council (which notice shall be published in one or more newspapers as the Governor General in Council may, upon the application of one or more policy-holders or shareholders, direct), the default shall be a ground on which the Court may order the winding-up of the company, in accordance with the [1]Indian Companies Act, 1882. **VI of 1882.**

Penalty for falsifying statements, etc.

35. If any account, balance-sheet, abstract, statement or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Cognizance of offences.

36. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

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[1] *See* now the Indian Companies Act, 1913 (7 of 1913).

Miscellaneous.

37. (*1*) The Governor General in Council may appoint one or more inspectors to examine into the affairs of any life assurance company, and to report thereon in such manner as he may direct— **Appointment of inspectors.**

(i) in the case of a life assurance company which is not registered under the [1]Indian Companies Act, 1882, upon the application— **VI of 1882.**

(*a*) of shareholders being in number not less than one-fifth of the whole number of persons for the time being entered on the list of shareholders kept in accordance with the provisions of section 16; or

(*b*) of twenty or more policy-holders owning policies of an aggregate value of not less than twenty thousand rupees;

(ii) in any case where a life assurance company has failed to furnish a further statement when required to do so under the provisions of section 11, sub-section (*2*), or where the Governor General in Council is of opinion that any such further statement is insufficient or unsatisfactory.

(*2*) On an appointment being made under sub-section (*1*), the provisions of section 84 of the [1]Indian Companies Act, 1882, shall apply to the examination made by such inspectors. **VI of 1882.**

38. Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent, and any notice so addressed and sent shall be deemed and taken to be notice to the holder of such policy: **Service of notices.**

Provided that, where any person claiming to be interested in a policy has given to the company notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

39. (*1*) The Governor General in Council may make [2]rules to carry out the purposes of this Act. **Powers to make rules.**

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1 *See* now the Indian Companies Act, 1913 (7 of 1913).

2 For rules under this section in conjunction with section 27, *see* General Statutory Rules and Orders, Vol. IV, p. 353.

(*Miscellaneous*)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the qualifications to be possessed by actuaries, auditors and inspectors under this Act, and the manner in which the accounts of life assurance companies shall be audited,

(*b*) prescribe the time within, and the form in which, notice of alteration of the particulars specified in section 19 of the Act shall be filed with the Registrar

(*c*) subject to the provisions of this Act, prescribe the fees payable thereunder

(3) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act

Power of Governor General in Council to delegate to Local Governments the powers conferred by this Act

40 The Governor General in Council may, by notification in the Gazette of India, and subject to such conditions and restrictions as he thinks fit, delegate to any Local Government all or any of the powers (other than the power to make rules under section 39) conferred on him by this Act

Power of Governor General in Council to exempt from the provisions of the Act.

41. The Governor General in Council may, by notification in the Gazette of India, and subject to such restrictions and conditions as he thinks fit, [1]exempt any life assurance company from all or any of the provisions of this Act

42. [*Amendment of Act VI, 1882, section 131*] *Repealed by s 3 and Sch II of the Second Repealing and Amending Act, 1914 (17 of 1914)*

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[1] For notification exempting certain companies, *see* General Statutory Rules and Orders, Vol. IV, pp 374-376

THE FIRST SCHEDULE

(*See section 7.*)

REVENUE ACCOUNTS OF THE FOR THE YEAR ENDING

(A) Life Assurance Account.

	Rs		Rs
		Dividends payable on 19 for the year ending 19 (This is only to be stated here by companies not supplying a Profit and Loss account.)	
Amount of life assurance fund at the beginning of the year		Claims under policies paid and outstanding—	
		By death	
		By maturity	
		Surrenders, including surrenders of bonus additions	
		Annuities	
		Bonuses in cash	
Premiums		Bonuses in reduction of premiums	
		Expenses of management —	
		Commission	
		Agents' and Canvassers' allowances	
Consideration for annuities granted* (see Note 1)		Salaries, etc. (other than to Agents and Canvassers)	
		Travelling expenses	
		Directors' fees	
		Auditors' fees	
		Medical fees	
		Rents for offices belonging to and occupied by the company	
Interests, dividends and rents — Rs		Rents of other offices occupied by the company	
		Law charges	
		Advertising	
		Printing and stationery	
Less income tax thereon.		Other expenses of management (accounts to be specified.)	
		Other payments (accounts to be specified.)	
Other receipts (accounts to be specified)		Amount of life assurance fund at the end of the year, as per Third Schedule	
Rs.		Rs.	

* NOTE 1.—Companies having a separate annuity fund with investments separate from those of the life assurance fund to return the particulars of their annuity business in a separate statement, in Form B of this Schedule.

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of reassurances of the company's risk.

NOTE 3.—If any sum has been deducted from the expenses of management account, and taken credit for in the balance-sheet as an asset, the sum so deducted to be separately shown in the above account.

(The First Schedule.)

(B) Revenue Account applicable to annuity business of those companies having a separate annuity fund, the investments of which are kept separate from those of the life assurance fund.

		Rs		Rs
Amount of annuity fund at the beginning of the year			Annuities	
Consideration for annuities granted			Surrenders	
	Rs		Expenses of management —	
Interests, dividends and rents			Commission	
Less income tax thereon			Other expenses (to be specified)	
			Other payments (accounts to be specified)	
Other receipts			Amount of annuity fund at the end of the year as per balance-sheet	
Rs			Rs	

NOTE.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of reassurances of the company's risks.

(C) General Revenue Account applicable to all classes of business other than life assurance and annuity transactions.

		Rs		Rs.
Amount of funds at the beginning of the year			Claims less reassurances (accounts to be specified)	
Premiums (accounts to be specified)			Expenses of management —	
	Rs			
Interests, dividends and rents			Commission	
Less income-tax thereon			Other expenses (to be specified)	
			Losses (accounts to be specified)	
Profits (accounts to be specified)			Other payments (accounts to be specified)	
Other receipts (to be specified)			Amount of funds at the end of the year as per balance-sheet	
Rs			Rs	

NOTE 1.—All the items in the above account to be exclusive of life assurance and annuity transactions.

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of reassurances of the company's risks.

(D) Statement to be submitted along with the Revenue Account by all life assurance companies

Class of policy	Total new life assurances completed in India during the year 19			Portion thereof reassured.		
	Sum Assured	Annual Premium	Single Premium	Sum Assured	Annual Premium	Single Premium
	Rs	Rs	Rs	Rs	Rs	Rs
Whole life						
Whole life by limited payment						
Endowment assurances						
Pure endowments						
Term assurances						
Other classes						
TOTAL						

State also —

New annuities (state number and annual amount)

Total sums assured and bonuses (less reassurances) remaining in force at end of year 19 on lives of residents in India

Number and amount of annuities (less reassurances) remaining in force at end of year 19 on lives of residents in India

Largest sum for which the company has granted an assurance on any one life during the year, after deduction of any portion reassured

Statement of the total investments in India of the life assurance and annuity funds

THE SECOND SCHEDULE

(*See section 7.*)

PROFIT AND LOSS ACCOUNT OF THE FOR THE YEAR ENDING .

		Rs.		Rs.
Balance of last year's account			Dividends and bonuses to shareholders payable on 19 , for the year ending 19	
	Rs			
Interest and dividends not carried to other accounts.			Expenses not charged to other accounts	
Less income-tax thereon			Loss realised (accounts to be specified)	
			Other payments (accounts to be specified)	
Profit realized (accounts to be specified).			Balance as per Third Schedule .	
Other receipts (accounts to be specified).				
Rs			Rs.	

THE THIRD SCHEDULE

(*See section 7*)

(A) BALANCE-SHEET OF THE ON THE 19

LIABILITIES	Rs	ASSETS	Rs
		Assets of life assurance fund as per separate balance sheet (if any)	
Rs Life assurance fund—		Assets of annuity fund as per separate balance sheet (if any)	
Outstanding liabilities of life assurance fund		Assets of funds other than those shown in the above mentioned balance sheets	
Annuity fund (if any) as per separate balance sheet		Mortgages on property within India Do do out of India	
Outstanding liabilities of annuity fund		Loans on public rates Do life interests and reversions	
		Do stocks and shares	
Shareholders' capital paid up (if any)		Do company's policies within their surrender values	
		Do personal security	
Profit and Loss account (if any) Funds contained in General Revenue Account (if any) [Schedule I (c)]		Investments— Deposit with the 1[Controller of Currency] (securities to be specified)	
		Indian Government securities	
		British and Colonial Government securities	
Other sums owing by the Company.		Foreign Government securities Indian Municipal and Provincial securities	
(Accounts to be specified and stated separately under each class of business)		British and Colonial securities Foreign ditto ditto	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by the Indian Government Bonds, debentures, stocks and other securities whereon interest is guaranteed by the British or any Colonial Government	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by any Foreign Government	

1 These words were substituted for the words "Comptroller General" by s 2 of the Indian Life Assurance Companies (Amendment) Act, 1914 (13 of 1914)

(The Third Schedule)

(A) BALANCE-SHEET OF THE ON THE 19 —*(contd)*

LIABILITIES	Rs	ASSETS	Rs
		Ordinary stocks and shares of any Indian Presidency Bank	
		Debentures of any Railway in India	
		Debentures of any Railway out of India	
		Preference or guaranteed shares of any Railway in India	
		Preference or guaranteed shares of any Railway out of India	
		Ordinary stocks and shares of any Railway in India	
		Ordinary stocks and shares of any Railway out of India	
		House property in India	
		House property out of India	
		Freehold and leasehold ground rents and rent charges in India	
		Life interests and reversions in India	
		Life interests and reversions out of India	
		Other investments in India (to be specified)	
		Other investments out of India (to be specified)	
		Agents' balances . .	
		Outstanding premiums* .	
		Outstanding interests, dividends and rents *	
		Interest accrued but not payable*	
		Bills receivable . .	
		Cash—	
		On deposit	
		In hand and on current account	
		Other assets (to be specified) .	
Rs.		Rs.	

*These items are or have been included in the corresponding items in the First Schedule

NOTE 1 —When part of the assets of the company are specifically deposited under local laws in various places out of India, as security to holders of life assurance policies there issued, each such place and the amount compulsorily lodged therein must be specified

NOTE 2 —The balance sheet must state how the values of the stock exchange securities are arrived at, and on the occasions when a statement respecting valuation under the Fourth Schedule is made, a certificate must be appended, signed by the same persons as signed the balance-sheet, to the effect that in their belief the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account

NOTE 3 —Companies having investments with any uncalled liability shall state separately the full amount thereof

NOTE 4 —Particulars must be given of all loans, including temporary advances, except loans on policies within their surrender values, made at any time during the year to any director or officer of a company or to any other company in which any of the said directors or officers may hold the position either of director or of officer.

(*The Third Schedule.*)

(B) BALANCE-SHEET OF THE LIFE ASSURANCE FUND ON THE 19 , TO BE COMPLETED BY COMPANIES DOING BUSINESS OTHER THAN LIFE ASSURANCE FOR WHICH THEY HAVE SEPARATE FUNDS.

LIABILITIES.	Rs.	ASSETS.	Rs.
Life assurance fund . . .		Mortgages on property within India.	
Claims admitted or intimated* but not paid.		Mortgages on property out of India	
Other sums owing by the company* (under this class of business).		Loans on public rates . . .	
		Do. life interest and reversions	
		Do. stocks and shares .	
		Do. company's policies within their surrender values.	
		Do. personal security . .	
		Investments :—	
		Deposit with the [1][Controller of Currency] (securities to be specified).	
		Indian Government securities.	
		British and Colonial Government securities.	
		Foreign Government securities	
		Indian Municipal and Provincial securities.	
		British and Colonial securities	
		Foreign do. do. .	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by the Indian Government.	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by the British or any Colonial Government.	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by any Foreign Government.	
		Ordinary stocks and shares of any Indian Presidency Bank.	
		Debentures of any Railway in India.	
		Debentures of any Railway out of India.	
		Preference or guaranteed shares of any Railway in India.	
		Preference or guaranteed shares of any Railway out of India.	
		Ordinary stocks and shares of any Railway in India.	

* These items are or have been included in the corresponding items in the First Schedule.

1 These words were substituted for the words "Comptroller General" by s. 2 of the Indian Life Assurance Companies (Amendment) Act, 1914 (13 of 1914).

(The Third Schedule.)

(B) BALANCE-SHEET OF THE LIFE ASSURANCE FUND ON THE 19 , TO BE COMPLETED BY COMPANIES DOING BUSINESS OTHER THAN LIFE ASSURANCE FOR WHICH THEY HAVE SEPARATE FUNDS—*contd.*

LIABILITIES.	Rs.	ASSETS.	Rs.
		Ordinary stocks and shares of any Railway out of India	
		House property in India .	
		House property out of India .	
		Freehold and leasehold ground rents and rent-charges in India	
		Life interests and reversions in India.	
		Life interests and reversions out of India	
		Other investments in India (to be specified).	
		Other investments out of India (to be specified).	
		Agents' balances	
		Outstanding premiums* . .	
		Do. interests, dividends and rents.*	
		Interest accrued but not payable*	
		Bills receivable	
		Cash—	
		On deposit	
		In hand and on current account	
		Other assets (to be specified) .	
Rs.		Rs.	

*These items are or have been included in the corresponding items in the First Schedule.

NOTE 1.—When part of the assets of the company are specifically deposited under local laws in various places out of India, as security to holders of life assurance policies there issued, each such place and the amount compulsorily lodged therein must be specified

NOTE 2.—A balance-sheet in the above form must be rendered in respect of the annuity fund if the investments of that fund are distinct from those of the life assurance fund.

NOTE 3.—The balance-sheet must state how the values of the stock exchange securities are arrived at, and on the occasions when a statement respecting valuation under the Fourth Schedule is made, a certificate must be appended, signed by the same persons as signed the balance-sheet, to the effect that in their belief the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account.

NOTE 4.—A certificate must be appended hereto, signed by the same persons as signed the balance-sheet (Form A), and by the auditor, to the effect that no part of any such fund has been applied, directly or indirectly, for any purpose other than the class of business to which it is applicable.

NOTE 5.—Companies having investments with any uncalled liability shall state separately the full amount thereof.

NOTE 6.—Particulars must be given of all loans, including temporary advances, except loans on policies within their surrender values, made at any time during the year to any director or officer of a company or to any other company in which any of the said directors or officers may hold the position either of director or of officer.

(The Fourth Schedule.)

THE FOURTH SCHEDULE.

(See sections 8 and 9.)

STATEMENT RESPECTING THE VALUATION OF THE LIABILITIES UNDER LIFE POLICIES AND ANNUITIES OF THE , TO BE MADE AND SIGNED BY THE ACTUARY.

(The answers should be numbered to accord with the numbers of the corresponding questions.)

1. The date up to which the valuation is made.

2. The general principles adopted in the valuation, and the method followed in the valuation of particular classes of assurances, including a statement of the method by which the net premiums have been arrived at, and whether these principles were determined by the instrument constituting the company or by its regulations or bye-laws, or how otherwise; together with a statement of the manner in which policies on under average lives are dealt with.

3. The table or tables of mortality used in the valuation. In cases where the tables employed are not published, specimen policy values are to be given at the rate of interest employed in the valuation, in respect of whole-life assurance policies effected at the respective ages of 20, 30, 40 and 50, and having been respectively in force for 5 years, 10 years, and upwards at intervals of five years, respectively; with similar specimen policy values in respect of endowment assurance policies, according to age at entry, original term of policy and duration.

4. The rate or rates of interest assumed in the calculations.

5. The actual proportion of the annual premium income (if any), reserved as a provision for future expenses and profits, separately specified in respect of assurances with immediate profits, with deferred profits, and without profits. (If none, state how this provision is made.)

(*The Fourth Schedule.*)

6. The consolidated revenue-account since the last valuation, or in case of a company which has made no valuation, since the commencement of the business. (This return should be made in the form annexed. No return under this heading will be required where a statement under this schedule is deposited annually.)

7. The liabilities of the company under life policies and annuities at the date of the valuation, showing the number of policies, the amount assured and the amount of premiums payable annually under each class of policies, both with and without participation in profits; and also the net liabilities and assets of the company with the amount of surplus or deficiency. (These returns to be made in the forms annexed.)

8. The principles upon which the distribution of profits among the shareholders and policy holders is made, and whether these principles were determined by the instrument constituting the company or by its regulations or bye-laws, or how otherwise, and the number of years' premiums to be paid before a bonus (*a*) is allotted, and (*b*) vests.

9. The results of the valuation, showing—

(1) the total amount of profit made by the company, allocated as follows :—

(*a*) among the policy-holders with immediate participation, and the number and amount of the policies which participated;

(*b*) among policy-holders with deferred participation, and the number and amount of the policies which participated;

(*c*) among the shareholders;

(*d*) to reserve funds, or other accounts;

(*e*) carried forward unappropriated;

(The Fourth Schedule.)

(2) specimens of bonuses allotted to whole life assurance policies for Rs. 1,000 effected at the respective ages of 20, 30, 40 and 50, and having been respectively in force for five years, 10 years and upwards at intervals of 5 years respectively, together with the amounts apportioned under the various modes in which the bonus might be received; with similar specimen bonuses and particulars in respect of endowment assurance policies, according to age at entry, original term of policy, and duration.

(Form referred to under Heading No. 6 in Fourth Schedule.)

Consolidated Revenue Account of the for years commencing and ending .

	Rs.	Rs.	Rs.
		Claims under policies paid and outstanding—	
Amount of life assurance fund at the beginning of the period.		By death	
Premiums		By maturity . . .	
		Surrenders	
Consideration of annuities granted.		Annuities	
Rs.		Bonuses in cash	
Interest, dividends and rents .		Bonuses in reduction of premiums.	
Less income-tax thereon .		Commission	
		Expenses of management . .	
Other receipts (accounts to be specified).		Other payments (accounts to be specified).	
		Amount of life assurance fund at the end of the period as per Third Schedule.	
Rs.		Rs.	

NOTE.—If any sum has been deducted from the expenses of management account and taken credit for in the balance-sheet as an asset, the sum so deducted to be separately shown in the above statement.

(The Fourth Schedule.)

(Form referred to under Heading No. 7 in Fourth Schedule.)

Summary and valuation of the policies of the as at 19 .

—	Particulars of the policies for valuation.				Valuation. Value by the Table, interest per cent.			
	Number of policies.	Sums assured and bonuses.	Office yearly premiums.	Net yearly premiums.	Sums assured and bonuses.	Office yearly premiums.	Net yearly premiums.	Net liability.
ASSURANCES.								
I.—*With immediate participation in profits.*								
For whole term of life								
Other classes (to be specified)								
Extra premiums payable								
II.—*With deferred participation in profits*								
For whole term of life								
Other classes (to be specified)								
Extra premiums payable								
TOTAL ASSURANCES WITH PROFITS								
III.—*Without participation in profits.*								
For whole term of life								
Other classes (to be specified)								
Extra premiums								
TOTAL ASSURANCES WITHOUT PROFITS.								
Total assurances								
Deduct reassurances (to be specified according to class in a separate statement).								
Net amount of assurances								
Adjustments, if any (to be separately specified).								
ANNUITIES ON LIVES.								
Immediate								
Other classes (to be specified)								
TOTAL OF THE RESULTS								

NOTE 1.—The term "extra premium" in this Act shall be taken to mean the charge for any risk not provided for in the minimum contract premium. If policies are issued in or for any country at rates of premium deducted from tables other than the European mortality tables adopted by the company, separate schedules similar in form to the above must be furnished.

NOTE 2.—Separate returns and valuation results must be furnished in respect of classes of policies valued by different tables of mortality, or at different rates of interest, also for business at other than European rates.

NOTE 3.—In cases also where separate valuations of any portion of the business are required under local laws in places outside British India, a summary statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums and the total net liability on the bases as to mortality and interest adopted in each such place, with a statement as to such bases respectively.

(The Fourth Schedule. The Fifth Schedule.)

(Form referred to under Heading No. 7 in Fourth Schedule.)

Valuation Balance-sheet of as at 19 .

Dr.	Rs.	Cr.	Rs.
To net liability under life assurance and annuity transactions (as per summary statement provided in Fourth Schedule).		By life assurance and annuity funds (as per balance-sheet under Third Schedule).	
To surplus, if any . .		By deficiency, if any . .	
	——		——
	——		——

THE FIFTH SCHEDULE.

(See section 10.)

STATEMENT OF THE LIFE ASSURANCE AND ANNUITY BUSINESS OF THE ON THE 19 . TO BE SIGNED BY THE ACTUARY.

(The answers should be numbered to accord with the numbers of the corresponding questions. Statements of reassurances corresponding to the statements in respect of assurances are to be given throughout.) Separate statements are to be furnished in the replies to all the headings under this Schedule for business at other than European rates.

1. The published table or tables of premiums for assurances for the whole term of life and for endowment assurances which are in use at the date above-mentioned.

2. The total amount assured on lives for the whole term of life which are in existence at the date above-mentioned, distinguishing the portions assured with immediate profits, with deferred profits and without profits, stating separately the total reversionary bonuses and specifying the sums assured for each year of life from the youngest to the oldest ages, the basis of division as to immediate and deferred profits being stated.

3. The amount of premiums receivable annually for each year of life after deducting the abatements made by the application of bonuses in respect of the respective assurances mentioned under Heading No. 2, distinguishing ordinary from extra premiums. A separate statement is to be given of premiums payable for a limited number of years, classified according to the number of years' payments remaining to be made.

(*The Fifth Schedule.*)

4. The total amount assured under endowment assurances, specifying sums assured and office premiums separately in respect of each year in which such assurances will mature for payment. The reversionary bonuses must also be separately specified, and the sums assured with immediate profits, with deferred profits and without profits separately returned

5. The total amount assured under classes of assurance business, other than assurances dealt with under questions 2 and 4, distinguishing the sums assured under each class and stating separately the amount assured with immediate profits, with deferred profits, and without profits, and the total amount of reversionary bonuses.

6. The amount of premiums receivable annually in respect of each such special class of assurances mentioned under Heading No. 5, distinguishing ordinary from extra premiums.

7. The total amount of premiums which has been received from the commencement upon pure endowment policies which are in force at the date above-mentioned

8. The total amount of immediate annuities on lives, distinguishing the amounts for each year of life, and distinguishing male and female lives.

9. The amount of all annuities on lives other than those specified under Heading No. 8, distinguishing the amount of annuities payable under each class, and the amount of premiums annually receivable.

10. The average rate of interest yielded by the assets, whether invested or uninvested, constituting the life assurance fund of the company, calculated upon the mean fund of each year during the period since the last investigation, without deduction of income-tax.

It must be stated whether or not the mean fund upon which the average rate of interest is calculated includes reversionary investments.

11. A table of minimum values, if any, allowed for the surrender of policies for the whole term of life and for endowments and endowment assurances, or a statement of the method pursued in calculating such surrender values, with instances of the application of such method to policies of different standing and taken out at various interval ages from the youngest to the oldest.

(The Sixth Schedule.)

THE SIXTH SCHEDULE.

(See sections 24 and 25.)

RULES FOR VALUING ANNUITIES, LIFE POLICIES AND LIABILITIES.

Rule for valuing an annuity.

An annuity shall be valued according to the tables used by the company which granted such annuity at the time of granting the same, and, where such tables cannot be ascertained or adopted to the satisfaction of the Court, then according to such rate of interest and table of mortality as the Court may direct.

Rule for valuing a policy.

The value of the policy is to be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus or addition thereto made before the commencement of the winding-up, and the present value of the future annual premiums.

In calculating such present values interest is to be assumed at such rate, and the rate of mortality according to such tables, as the Court may direct.

The premium to be calculated is to be such premium as according to said rate of interest and rate of mortality is sufficient to provide for the risk incurred by the office in issuing the policy, exclusive of any addition thereto for office expenses and other charges.

Rule for valuing a liability.

The liquidator, in the case of all persons appearing by the books of the company to be entitled to or interested in policies granted by such company, is to ascertain the value of the liability of the company to each such person, and give notice of such value to such persons in such manner as the Court may direct, and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in manner and within a time to be prescribed by a rule or order of the Court.

ACT No. VIII OF 1912.[1]

[*18th September, 1912.*]

An Act to make better provision for the protection and preservation of certain wild birds and animals.

WHEREAS it is expedient to make better provision for the protection and preservation of certain wild birds and animals; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Wild Birds and Animals Protection Act, 1912; and

(*2*) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

Application of Act.

2. (*1*) This Act applies, in the first instance, to the birds and animals specified in the Schedule, when in their wild state.

(*2*) The Local Government may, by [2]notification in the local official Gazette, apply the provisions of this Act to any kind of wild bird or animal, other than those specified in the Schedule, which, in its opinion, it is desirable to protect or preserve.

Close time.

3. The Local Government may, by notification[3] in the local official Gazette, declare the whole year or any part thereof to be a close time throughout the whole or any part of its territories for any kind of wild bird or animal to which this Act applies, or for female or immature wild birds or animals of such kind; and, subject to the provisions hereinafter contained, during such close time, and within the areas specified in such notification, it shall be unlawful—

(*a*) to capture any such bird or animal, or to kill any such bird or animal which has not been captured before the commencement of such close time;

(*b*) to sell or buy, or offer to sell or buy, or to possess, any such bird or animal which has not been captured or killed before the commencement of such close time or the flesh thereof;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 2; for Report of Select Committee, *see ibid*, 1912, Pt. V, p. 173; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, pp. 57 and 691.

[2] For such a notification for Coorg, *see* Coorg District Gazette, 1913, Pt. I, p. 185.

For such a notification for United Provinces, *see* United Provinces Gazette, 1914, Pt. I, p. 169.

For such a notification for Madras, *see* Madras Rules and Orders, 1923, Vol. I, p. 439.

[3] For such a notification in Madras, *see ibid*.

(c) if any plumage has been taken from any such bird captured or killed during such close time to sell or buy, or to offer to sell or buy, or to possess, such plumage.

Penalties. 4. (1) Whoever does or attempts to do, any act in contravention of section 3, shall be punishable with fine which may extend to fifty rupees.

(2) Whoever, having already been convicted of an offence under this section is again convicted thereunder shall, on every subsequent conviction, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Confiscation. 5. (1) When any person is convicted of an offence punishable under this Act, the convicting Magistrate may direct that any bird or animal in respect of which such offence has been committed, or the flesh or any other part of such bird or animal, shall be confiscated.

(2) Such confiscation may be in addition to the other punishment provided by section 4 for such offence.

Cognizance of offences. 6. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence against this Act.

Power to grant exemption. 7. Where the Local Government is of opinion that, in the interests of scientific research, such a course is desirable, it may grant to any person a license, subject to such restrictions and conditions as it may impose, entitling the holder thereof to do any act which is by section 3 declared to be unlawful.

Savings. 8. Nothing in this Act shall be deemed to apply to the capture or killing of a wild animal by any person in defence of himself or any other person, or to the capture or killing of any wild bird or animal in *bona fide* defence of property.

9. [*Repeal.*] *Repealed by section 3 and Sch. II of the Second Repealing and Amending Act, 1914 (17 of 1914).*

THE SCHEDULE.

(i) Bustards, ducks, floricans, jungle fowl, partridges, peafowl, pheasants, pigeons, quail, sand-grouse, painted snipe, spur-fowl, wood-cock, herons, egrets, rollers, and king-fishers.

(ii) Antelopes, asses, bison, buffaloes, deer, gazelles, goats, hares, oxen, rhinoceroses and sheep.

ACT No. IX OF 1912 [1]

[*18th September, 1912.*]

An Act further to amend the Presidency Small Cause Courts Act, 1882.

V of 1882. WHEREAS it is expedient further to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

1. This Act may be called the Presidency Small Cause Courts (Amendment) Act, 1912. **Short title.**

V of 1882. **2.** In section 41 of the Presidency Small Cause Courts Act, 1882, for the word "one" the word "two" shall be substituted. **Amendment of section 41, Act XV, 1882.**

ACT No. X OF 1912.[2]

[*18th September, 1912.*]

An Act further to amend the Indian Divorce Act.

of 1869. WHEREAS it is expedient further to amend the Indian Divorce Act; It is hereby enacted as follows:—

1. This Act may be called the Indian Divorce (Amendment) Act, 1912. **Short title.**

of 1869. **2.** To section 7 of the Indian Divorce Act the following proviso shall be added, namely:— **Addition to section 7, Act IV, 1869.**

"Provided that nothing in this section shall deprive the said Courts of jurisdiction in a case where the parties to a marriage professed the Christian religion at the time of the occurrence of the facts on which the claim to relief is founded."

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 169; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, pp. 649 and 691.

2 For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 170; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, pp. 647 and 695.

ACT No. XIII OF 1912.[1]

[18th September, 1912.]

An Act to provide for the application of the law in force in the Province of Delhi and for the extension of other enactments thereto.

WHEREAS by [2]Proclamation published in Notification No. 911, dated the seventeenth day of September, 1912, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule A, which was formerly included within the Province of the Punjab, and to provide for the administration thereof by a Chief Commissioner as a separate Province to be known as the Province of Delhi;

And whereas it is expedient to provide for the application of the law in force in the said territory, and for the extension of other enactments thereto; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi Laws Act, 1912; and

(*2*) It shall come into force on the first day of October, 1912.

Saving of territorial application of enactments.

2. The Proclamation referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under any particular administration.

Construction of certain enactments in force in the territories mentioned in Schedule A.

3. All enactments made by any authority in British India and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments which immediately before the commencement of this Act were in force in, or prescribed for, any of the territory mentioned in Schedule A, shall in their application to that territory be construed as if references therein to the authorities, or gazette mentioned in column I of Schedule B were references to the authorities, or gazette respectively mentioned or referred to opposite thereto in column 2 of that Schedule:

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[1] The Bill which became Act XIII of 1912 was introduced and passed at the same meeting of the Council; no Statement of Objects and Reasons was therefore published.

For Proceedings in Council relating to the Bill, *see* Gazette of India, 1912, Pt. VI, p. 695.

[2] *See* Gazette of India, 1912, Extraordinary, p. 17.

Provided that the Governor General in Council may, by notification[1] in the Gazette of India, direct that any power or duty conferred or imposed on the Local Government under any such enactment shall be exercised or performed by the Governor General in Council or by such other authority as he may specify in this behalf, and not by the Chief Commissioner of Delhi.

Powers of Courts and Local Government for purposes of facilitating application of enactments.

4. For the purpose of facilitating the application to the territory mentioned in Schedule A or any part thereof of any enactment passed before the commencement of this Act or of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any such enactment—

(1) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule, form or by-law with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court, and

(2) the Local Government may, subject to the other provisions of this Act by notification[2] in the Gazette of India, direct by what Officer any power or duty shall be exercised or discharged, and any such notification shall have effect as if enacted in this Act.

Vesting of powers of separate Officers in single Officer.

5. (*1*) A notification[3] issued under section 4, sub section (*2*), may direct that any powers or duties vested in separate Officers may be consolidated and vested in, and discharged by, a single Officer.

(*2*) Where by such a notification appellate powers are consolidated and vested in a single Officer, the period of limitation for the consolidated appeal shall be the longest period provided in the case of an appeal to any of the Officers whose powers are so consolidated.

Pending proceedings.

6. Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule A, and every such proceeding shall be continued as if this Act had not been passed :

Provided that all proceedings which at the commencement of this Act are pending before the Commissioner of the Division or any other

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[1] For notification declaring by whom certain powers and duties under certain Acts shall be exercised *see* General Statutory Rules and Orders, Vol. IV, pp. 377-379.

[2] For such notification as to appellate powers of the Commissioner and Financial Commissioner under the Punjab Tenancy Act, 1887, and Punjab Land Revenue Act, 1887, *see* Gazette of India, 1912, Pt. I, p. 1104, and as Registrar of Co-operative Societies, *see ibid*, p. 1105.

[3] For notification issued under this section, *see* Gazette of India, 1912, Pt. I, p. 1104.

authority within the territory mentioned in Schedule A shall be transferred to, and disposed of by, such authorities in the Province of Delhi as the Local Government may, by notification[1] in the Gazette of India, direct.

Power to extend enactments in force in other parts of British India with modifications and restrictions.

7. The Governor General in Council may, by [2]notification in the Gazette of India, extend with such restrictions and notifications as he thinks fit to [3][the Province of Delhi] or any part thereof, any enactment which is in force in any part of British India at the date of such notification.

SCHEDULE A.

(*See section 3.*)

THE PROVINCE OF DELHI.[4]

That portion of the District of Delhi comprising the Tahsil of Delhi and the police station of Mahrauli.

SCHEDULE B.

(*See section 3.*)

1	2
Reference.	Construction.
1. The Local Government	The Chief Commissioner of Delhi.
2. The Lieutenant-Governor of the Punjab .	
3. The Chief Controlling Revenue Authority	
4. The Chief Revenue Authority. . .	The Chief Commissioner of Delhi.
5. The Chief Customs Authority . .	
6. The Financial Commissioner . . .	
7. The Commissioner of Revenue . .	
8. The Commissioner of the Division . .	
9. The Commissioner	
10. The Chief Secretary to Government .	
11. A Secretary to Government or to the Local Government.	

[1] For such a notification, *see* Gazette of India, 1912, Pt. I, p. 1104.
[2] For such notifications *see* General Statutory Rules and Orders, Vol. IV, pp. 379-387.
[3] These words were substituted for the words "the territory mentioned in Schedule A" by s. 7 of the Delhi Laws Act, 1915 (7 of 1915).
[4] 65 villages were subsequently included in the Province of Delhi by proclamation published in Notification No. 984-C., dated 22nd February 1915, *see* Gazette of India, 1915, Pt. I, p. 336.

SCHEDULE B—*contd.*

1 Reference.	2 Construction.
12. All officers and official bodies not mentioned in the foregoing clauses except the Treasurer of Charitable Endowments whose authority extended immediately before the commencement of this Act over the territory mentioned in Schedule A.	Such officials or official bodies respectively as the local Government may, by notification[1] in the Gazette of India, direct.
13. The local Official Gazette of the Punjab .	The Gazette of India.

ACT No. I of 1913.[2]

[27th February, 1913.]

An Act to amend the Indian Extradition Act, 1903.

XV of 1903. Whereas it is expedient to amend the Indian Extradition Act, 1903; It is hereby enacted as follows :—

1. This Act may be called the Indian Extradition (Amendment) Act, 1913. **Short title.**

2. (*1*) In sub-section (*1*) of section 7 of the Indian Extradition Act, 1903, after the words "such person is believed to be," the words "or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town" shall be inserted. **XV of 1903.** **Amendment of section 7, Act XV, 1903.**

(*2*) In sub-section (*2*) of the same section after the words "accused person when arrested shall" the words "be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him; such accused person shall then" shall be inserted.

(*3*) In sub-section (*3*) of the same section after the words "District Magistrate," the words "or Chief Presidency Magistrate" shall be inserted.

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[1] For such a notification, *see* Gazette of India, 1912, Pt. I, p. 1109.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 170; for Report of Select Committee, *see ibid*, 1913, Pt. V, p. 1; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, pp. 647 & 692 and *ibid*, 1913, Pt. VI, pp. 13, 28 and 49.

Addition of new section after section 8, Act XV, 1903.

3. After section 8 of the said Act the following section shall be inserted, namely :—

Power to report case for orders of Local Government.

"8A. Notwithstanding anything contained in section 7, sub-section (*2*) or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local Government and, pending the receipt of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required."

THE OFFICIAL TRUSTEES ACT, 1913.

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ACT No. II OF 1913.[1]

[*27th February, 1913.*]

An Act to consolidate and amend the Law constituting the office of Official Trustee.

WHEREAS it is expedient to consolidate and amend the law constituting the office of the Official Trustee; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Official Trustees Act, 1913.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to all British and Indian subjects of His Majesty in the territories of Native States in India.

(*3*) It shall come into force on such [2]date as the Governor General in Council, by notification in the Gazette of India, may direct.

Interpretation clause.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Government" means the Governor General in Council, so far as the Act relates to the Presidency of Bengal, and the Local Governments of Madras and Bombay, respectively, so far as the Act relates to those Presidencies:

(*2*) "High Court" means His Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay, respectively, in the exercise of their original civil jurisdiction:

(*3*) "Official Gazette" means, in the case of the Presidency of Bengal, the Gazette of India, in the case of the Presidency of Madras, the Fort St. George Gazette, and in the case of the Presidency of Bombay, the Bombay Government Gazette:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p 202; for Report of Select Committee, *see ibid*, 1913, Pt. V, p. 19; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, p. 699 and *ibid*, 1913, Pt. VI, pp. 15 and 28.

[2] The 1st April, 1914, *see* General Statutory Rules and Orders, Vol. IV, p. 388.

(*Part I.—Preliminary.*)

(4) " Prescribed " means prescribed by rules under this Act :

(5) (*a*) " Presidency of Bengal " includes the territories for the time being under the government of the Governor of Fort William in Bengal in Council, the United Provinces of Agra and Oudh, the Provinces of the Punjab, Burma, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, the Province of Delhi, Ajmer and Merwara, the Andaman and Nicobar Islands, and such of the territories of any Native State as the Governor General in Council may by [1]notification in the Gazette of India direct,

(*b*) " Presidency of Bombay " includes the territories for the time being under the government of the Governor of Bombay in Council, the Province of British Baluchistan, and such of the territories of any Native State as the Governor General in Council may by [1]notification in the Gazette of India direct,

(*c*) " Presidency of Madras " includes the territories for the time being under the government of the Governor of Fort St. George in Council, the Province of Coorg, and such of the territories of any Native State as the Governor General in Council may by [1]notification in the Gazette of India direct :

(6) " Presidency " means any of the Presidencies mentioned in clause (5) :

[2][(7) " revenues of the Government " means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act.]

Extent of jurisdiction of High Courts.

3. For the purposes of this Act the High Court at a Presidency-town shall have jurisdiction throughout the Presidency.

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1 For notification under this section in conjunction with section 31, including certain Native States in the Presidencies and Provinces constituted for the purposes of the Act, *see* General Statutory Rules and Orders, Vol. IV, p. 390.

2 This clause was added by s. 2 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

PART II.

THE OFFICE OF OFFICIAL TRUSTEE.

4. (1) In each of the Presidencies of Bengal, Madras and Bombay, the Government shall appoint an Official Trustee. **Official Trustees.**

(2) No person shall be appointed to the office of Official Trustee of any of the said Presidencies who is not—

(a) a Barrister; or

(b) an Advocate, Attorney or Vakil enrolled by a High Court; or

(c) a person holding the office of Deputy Administrator General at the commencement of this Act.

(3) The said Official Trustees shall be called respectively, the Official Trustee of Bengal, the Official Trustee of Madras and the Official Trustee of Bombay.

5. The Government may appoint a Deputy or Deputies to assist the Official Trustee; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Official Trustee, be competent to discharge any of the duties and exercise any of the powers of the Official Trustee, and, when discharging such duties or exercising such powers, shall have the same privileges and be subject to the same liabilities as the Official Trustee. **Appointment and powers of Deputy Official Trustee.**

6. The Official Trustee shall be a corporation sole by the name of the Official Trustee of the Presidency for which he is appointed and, as such Official Trustee, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name. **Official Trustee to be corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name.**

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF OFFICIAL TRUSTEE.

7. (1) Subject to, and in accordance with, the provisions of this Act and the rules made thereunder, the Official Trustee may, if he thinks fit,— **General powers and duties of Official Trustee.**

(a) act as an ordinary trustee;

(b) be appointed trustee by a Court of competent jurisdiction.

(2) Save as hereinafter expressly provided, the Official Trustee shall have the same powers, duties and liabilities and be entitled to the same rights and privileges and be subject to the same control and orders of the Court as any other trustee acting in the same capacity.

(3) The Official Trustee may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(4) The Official Trustee shall not accept any trust under any composition or scheme of arrangement for the benefit of creditors, nor of any estate known or believed by him to be insolvent.

(5) The Official Trustee shall not, save as provided by any rules made under this Act, accept any trust for a religious purpose or any trust which involves the management or carrying on of any business.

(6) The Official Trustee shall not administer the estate of a deceased person, unless he is expressly appointed sole executor of, and sole trustee under, the will of such person.

(7) The Official Trustee shall always be sole trustee, and it shall not be lawful to appoint the Official Trustee to be trustee along with any other person.

Official Trustee may with consent be appointed trustee of settlement by grantor.

8. (1) Any person intending to create a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act may by the instrument creating the trust and with the consent of the Official Trustee, appoint him by that name or any other sufficient description to be the trustee of the property subject to such trust:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Upon such appointment the property subject to the trust shall vest in such Official Trustee, and shall be held by him upon the trusts declared in such instrument.

Appointment of Official Trustee as trustee by will.

9. When the Official Trustee has by that name or any other sufficient description been appointed trustee under any will, the executor of the will of [1][the testator] or the administrator of his estate shall,

1 These words were substituted for the words "such testator" by s. 2 and Sch. I of the Repealing and Amending Act, 1919 (18 of 1919).

after obtaining probate or letters of administration, notify in the prescribed manner the contents of such will to such Official Trustee; and, if such Official Trustee consents to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Official Trustee, such property shall vest in such Official Trustee, and shall be held by him upon the trusts expressed in the said will:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

Power of High Court to appoint Official Trustee to be trustee of property.

10. (*1*) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and there is no trustee within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court willing or capable to act in the trust, the High Court may on application make an order for the appointment of the Official Trustee by that name with his consent to be the trustee of such property.

(*2*) Upon such order such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such order, and the previous trustee or trustees (if any) shall be exempt from liability as trustees of such property save in respect of acts done before the date of such order.

XXVIII of 1866. II of 1882.

(*3*) Nothing in this section shall be deemed to affect the provisions of the Trustees' and Mortgagees' Powers Act, 1866, or the Indian Trusts Act, 1882.

Power of private trustees to appoint Official Trustee to be trustee of property.

11. (*1*) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and all the trustees or the surviving or continuing trustee or trustees and all persons beneficially interested in the trust are desirous that the Official Trustee shall be appointed in the room of such trustee or trustees, it shall be lawful for such trustee or trustees, by an instrument in writing to appoint the Official Trustee by that name or any other sufficient description with his consent to be the trustee of such property:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by him.

(2) Upon such appointment such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such appointment, and the previous trustee or trustees shall be exempt from all liability as trustees of such property save in respect of acts done before the date of such appointment.

Executor or administrator may pay to Official Trustee legacy, share, etc., of infant or lunatic.

12. (1) If any infant or lunatic is entitled to any gift, legacy or share of the assets of a deceased person, it shall be lawful for the person by whom such gift is made, or executor or administrator by whom such legacy or share is payable or transferable, or any trustee of such gift, legacy or share, to transfer the same by an instrument in writing to the Official Trustee by that name or any other sufficient description with his consent:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Any money or property transferred to the Official Trustee under this section shall vest in him and shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee.

Official Trustee not to be required to give bond or security.

13. (1) No Official Trustee shall be required by any Court to enter into any bond or security on his appointment in any capacity under this Act.

(2) No Official Trustee or Deputy Official Trustee shall be required to verify otherwise than by his signature any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Official Trustee's personal knowledge, the petition may be verified and subscribed by any person competent to make the verification.

Entry of Official Trustee not to constitute notice of a trust.

14. The entry of the Official Trustee by that name in the books of a company shall not constitute notice of a trust; and a company shall not be entitled to object to enter the name of the Official Trustee on its register by reason only that the Official Trustee is a corporation; and, in dealing with property, the fact that the person dealt with is the Official Trustee shall not of itself constitute notice of a trust.

15. (*1*) The revenues of the Government [1] * shall be liable to make good all sums required to discharge any liability which the Official Trustee, if he were a private trustee, would be personally liable to discharge, except when the liability is one to which neither the Official Trustee nor any of his officers has in any way contributed or which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in either of those cases the Official Trustee shall not, nor shall the revenues [2][of the Government or] of the Government of India, be subject to any liability. **Liability of Government.**

(*2*) Nothing in sub-section (*1*) shall be deemed to render the revenues [2][of the Government or] of the Government of India or any Official Trustee appointed under this Act liable for anything done by or under the authority of any Official Trustee before the commencement of this Act.

V of 1908. 16. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Official Trustee in which no relief is claimed against him personally. **Notice of suit not required in certain cases.**

PART IV.

FEES.

17. (*1*) There shall be charged in respect of the duties of the Official Trustee such fees, whether by way of percentage or otherwise, as the Government may prescribe: **Fees.**

Provided that in the case of a trust accepted by the Official Trustee before the commencement of this Act the fees prescribed under this section shall not exceed the fees leviable in respect of such trust under **XVII of 1864.** the [3]Official Trustees Act, 1864, as subsequently amended.

(*2*) The fees under this section may be at different rates for different properties or classes of properties or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of

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[1] The words "of India" were omitted by s. 3 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

[2] These words were inserted by *ibid.*

[3] Repealed by the Official Trustees Act, 1913 (2 of 1913).

this Act (including such sum as Government may determine to be required to insure the revenues of the Government[1] * * against loss under this Act).

Disposal of fees.

18. (*1*) All expenses which might be retained or paid out of the trust fund, if the Official Trustee were a private trustee, shall be so retained or paid, and any fees leviable under this Act shall be retained or paid in like manner as and in addition to such expenses.

(*2*) The Official Trustee shall transfer and pay to such authority and in such manner and at such times as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government[1] * * .

PART V.

AUDIT.

Auditors to be appointed to examine Official Trustee's accounts, etc., and to report to Government.

19. (*1*) The accounts of the Official Trustees shall be audited at least once annually and at any other time if the Government so direct by the prescribed person and in the prescribed manner.

(*2*) The auditor shall examine such accounts, and shall forward to Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by him showing—

(*a*) whether the accounts contain a full and true account of everything which ought to be contained therein, and

(*b*) whether the books, which by any rules made under this Act are directed to be kept by the Official Trustee, have been duly and regularly kept, and

(*c*) whether the trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or any rules made thereunder;

or (as the case may be) that such accounts are deficient, or that the Official Trustee has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in such certificate.

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1 The words "of India" were omitted by s. 4 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

20. (*1*) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, — **Auditor's power to summon witnesses and to call for documents.** — V of 1908.

(*a*) to summon any person whose presence he may think necessary to attend him from time to time, and

(*b*) to examine any person, on oath to be by him administered, and

(*c*) to issue a commission for the examination on interrogatories or otherwise of any person, and

(*d*) to summon any person to produce any document or thing, the production of which appears to be necessary for the purposes of such audit or examination

(*2*) Any person who, when summoned, refuses, or without reasonable cause neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the auditor shall report every case of such refusal or neglect to Government. — XLV of 1860.

21. The cost of and incidental to every such audit and examination shall be determined in accordance with rules made by the Government and shall be defrayed in the prescribed manner. — **Cost of audit, etc., how paid.**

22. Every beneficiary under a trust which is being administered by the Official Trustee shall, subject to such conditions and restrictions as may be prescribed, be entitled, at all reasonable times, to inspect the accounts of such trust, and the report and certificate of the auditor and, on payment of the prescribed fee, to be furnished with copies thereof or extracts therefrom, and nothing in the Indian Trusts Act, 1882, shall affect the provisions of this section. — **Right of beneficiary to inspection and copies of accounts.** — II of 1882.

PART VI.

MISCELLANEOUS.

23. When any moneys payable to a beneficiary under a trust have been in the hands of any Official Trustee for a period of twelve years or upwards whether before or after the commencement of this Act in consequence of the Official Trustee having been unable to trace the person — **Transfer to Government of accumulations in the hands of Official Trustee.**

(Part VI.—Miscellaneous.)

entitled to receive the same, such moneys shall be transferred in the prescribed manner to the account and credit of the Government [1] * :

Provided that no such moneys shall be so transferred if any suit or proceeding is pending in respect thereof in any Court.

Mode of proceeding by claimant to recover money so transferred.

24. (*1*) If any claim is made to any moneys so transferred and such claim is established to the satisfaction of the prescribed authority, the Government [1] * * shall pay to the claimant the amount in respect of which the claim is established.

(*2*) If such claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such moneys, apply by petition to the High Court against the Secretary of State for India in Council, and, after taking such evidence as it thinks fit, such Court shall make such order on the petition in regard to the payment of such moneys as it thinks fit, and such order shall be binding on all parties to the proceedings.

(*3*) The Court may further direct by whom all or any part of the costs of such proceedings shall be paid.

Power of High Court to make orders in respect of property vested in Official Trustee.

25. The High Court may make such orders as it thinks fit respecting any trust property vested in the Official Trustee, or the interest or produce thereof :

Who may apply for order under Act.

26. Any order under this Act may be made, on the application of any person beneficially interested in any trust property or of any trustee thereof.

Order of Court to have effect of a decree.

27. Any order made by a High Court under this Act shall have the same effect as a decree.

General powers of administration.

28. The Official Trustee may, in addition to and not in derogation of any other powers of expenditure lawfully exerciseable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care and management of any property belonging to any trust administered by him; and

[1] The words "of India" were omitted by s. 4 of the Official Trustees and Administrator Generals' Acts Amendment Act, 1922 (21 of 1922).

(*Part VI.—Miscellaneous.*)

(*b*) with the sanction of the High Court on such religious, charitable and other objects and on such improvements as may be reasonable and proper in the case of such property.

29. (*1*) Nothing in this Act shall be deemed to prevent the transfer by the Official Trustee of any property vested in him to— **Transfer of trust property by Official Trustee to original trustee or any other trustee.**

(*a*) the original trustee (if any); or

(*b*) any other lawfully appointed trustee; or

(*c*) any other person if the Court so directs.

(*2*) Upon such transfer such property shall vest in such trustee, and shall be held by him upon the same trusts as those upon which it was held prior to such transfer, and the Official Trustee shall be exempt from all liability as trustee of such property except in respect of acts done before such transfer :

Provided that, in the case of any transfer under this section, the Official Trustee shall be entitled to retain out of the property any fees leviable in accordance with the provisions of this Act.

30. (*1*) The Government shall make rules[1] for carrying into effect the objects of this Act and for regulating the proceedings of the Official Trustee in the discharge of his duties. **Rules.**

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the accounts to be kept by the Official Trustee and the audit and inspection thereof;

(*b*) the safe custody, and deposit of the funds and securities which come into the hands of the Official Trustee;

(*c*) the remittance of sums of money in the hands of the Official Trustee in cases in which such remittances are required;

(*d*) the statements, schedules and other documents to be submitted by the Official Trustee to Government or to any other authority and the publication of such statements, schedules or other documents;

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[1] For rules made by the Governor General in Council for the Presidency of Bengal, *see* General Statutory Rules and Orders, Vol. IV, p. 393, and for other provinces *see* Local Rules and Orders.

(*Part VI.—Miscellaneous.*)

(*e*) the realization of the cost of preparing any such statements, schedules or other documents;

[1]* * * * * * *

(*f*) subject to the provisions of this Act, the fees to be paid thereunder and the collection and accounting for any fees so fixed;

(*g*) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed;

(*h*) the manner in which summonses issued under the provisions of section 20 are to be served and the payment of the expenses of any persons summoned or examined under the provisions of this Act and of any expenditure incidental to such examination;

(*i*) the acceptance by the Official Trustee of trusts for religious purposes and trusts which involve the management or carrying on of business; and

(*j*) any matter in this Act directed to be prescribed.

(*3*) Rules made under the provisions of this section shall be published in the official Gazette, and shall thereupon have effect as if enacted in this Act.

Division of Presidency into Provinces.

31. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council may, by [2]notification in the Gazette of India,—

(*a*) remove any of the territories included in the Presidency of Bengal from such Presidency and constitute the same into provinces for the purposes of this Act;

(*b*) [3]direct that for the purposes of this Act any of the territories of any Native State in India shall be included in any Province so constituted; and

(*c*) appoint any person qualified in accordance with the provisions of sub-section (*2*) of section 4, or who holds office under Government to be an Official Trustee for any such Province to be called the Official Trustee of the Province,

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[1] Clause (*ee*) which was inserted by Act 10 of 1914, was repealed by s. 6 and Sch. of the Destruction of Records Act, 1917 (5 of 1917).

[2] For such a notification, *see* General Statutory Rules and Orders, Vol. IV, p. 388.

[3] For notification under this section in conjunction with section 2 (*5*), *see* General Statutory Rules and Orders, Vol. IV, p. 390.

and subject to the provisions of this section the following consequences shall thereupon ensue, namely :—

(*i*) the Official Trustee of a Province shall by that name have the like rights, powers, privileges and liabilities, and perform the like duties, in the Province as the Official Trustee of the Presidency within which such territories were included had and performed as Official Trustee therein, and shall be deemed to be his successor in office :

(*ii*) the powers and duties of the Government under this Act shall, as regards the Province, be exercised and discharged by the Governor General in Council, or by such Local Government as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf; and the Gazette of the Government exercising and discharging such powers and duties shall be the official Gazette of the Province for the purposes of this Act :

(*iii*) the powers and duties assigned by the foregoing provisions of this Act to the High Court shall be exercised and discharged in respect of such Province by such Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf :

(*iv*) in the foregoing provisions of this Act, the word "Presidency" shall be deemed to include a province; and

(*v*) generally, the provisions of the foregoing sections with respect to the High Court and the provisions of this Act and of any other enactment for the time being in force with respect to the Official Trustee of a Presidency shall, in relation to a Province, be construed so far as may be to apply to the Court and the Official Trustee respectively appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification constituting the province and to or in which the Official Trustee of any Presidency within which any territories constituted into a Province are situate was a party or was otherwise concerned, shall be continued as if the notification had not been published.

(Part VI.—Miscellaneous.)

(3) If by reason of the constitution of provinces for the purposes of this Act it appears to the Governor General in Council that any property vested in the Official Trustee of any Presidency should be vested in the Official Trustee of a Province, he may direct that the property shall be so vested, and thereupon it shall vest in the Official Trustee of the Province as fully and effectually for the purposes of this Act as if it had originally been vested in him under this Act.

(4) If in accordance with the provisions of this section territories have been removed from the Presidency of Bengal and constituted a Province for the purposes of this Act, the Governor General in Council may, by notification[1] in the Gazette of India, direct that as regards the Presidency of Bengal excluding the territories so removed the powers and duties of the Government under the Act shall be exercised and discharged by the Local Government of Bengal, and that the official Gazette shall be the Calcutta Gazette.

(5) Upon the rescission of a notification constituting a Province under sub-section (1), the territories comprised therein shall again form part of the Presidency within which they were originally included, the office of Official Trustee for the Province shall determine and all properties vested in and all proceedings by or against such Official Trustee pending at the date of the rescission shall vest in and be carried on by or against such Official Trustee or Official Trustees as the Governor General in Council may direct.

Savings of provisions of Indian Registration Act, 1908.

32. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908. **XVI of 1908.**

33. [*Repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

[THE SCHEDULE.]

[*Enactments repealed.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

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[1] For such notification, *see* General Statutory Rules and Orders, Vol. IV, p. 392.

THE ADMINISTRATOR GENERAL'S ACT, 1913.

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ACT No. III OF 1913.[1]

[27th February, 1913.]

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Administrator General's Act, 1913.

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan, and applies also to all British and Indian subjects of His Majesty in the territories of Native States in India.

(3) It shall come into force on such[2] date as the Governor General in Council may, by notification in the Gazette of India, direct.

Interpretation clause.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "assets" means all the property, moveable and immoveable, of a deceased person, which is chargeable with and applicable to, the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin:

(2) "exempted person" means an Indian Christian, a Hindu, Muhammadan, Parsi or Buddhist, or a person exempted under section 332 of the [3]Indian Succession Act, 1865, from the operation of that Act: X of 1865.

(3) "Government" means the Governor General in Council, so far as the Act relates to the Presidency of Bengal and the Local Governments of Madras and Bombay respectively, so far as the Act relates to those Presidencies:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 188; for Report of Select Committee, *see ibid*, 1913, Pt. V, p. 3; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, p. 697, and *ibid*, 1913, Pt. VI, pp. 14, 28 and 64.

[2] The 1st April, 1914, *see* General Statutory Rules and Orders, Vol. IV, p. 406.

[3] *See* now the Indian Succession Act, 1925 (39 of 1925).

(*Part I.—Preliminary.*)

(*4*) "Indian Christian" means a Native of India who is or in good faith claims to be of unmixed Asiatic descent, and who professes any form of the Christian religion :

(*5*) "Letters of Administration" includes any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise :

(*6*) "next-of-kin" includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

(*7*) "Official Gazette" means, in the case of the Presidency of Bengal, the Gazette of India, and in the cases of the Presidencies of Madras and Bombay, the Fort St. George and Bombay Government Gazettes, respectively :

(*8*) "Prescribed" means prescribed by rules under this Act :

(*9*) (*a*) "Presidency of Bengal" includes the territories for the time being under the government of the Governor of Fort William in Bengal in Council, the United Provinces of Agra and Oudh, the provinces of the Punjab, Burma, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, the province of Delhi, Ajmer and Merwara, the Andaman and Nicobar Islands, and such of the territories of Native States aforesaid as the Governor General in Council may, by [1]notification in the Gazette of India, direct :

(*b*) "Presidency of Bombay" includes the territories for the time being under the government of the Governor of Bombay in Council the Province of British Baluchistan, and such of the territories of Native States aforesaid as the Governor General in Council may, by [1]notification in the Gazette of India direct :

(*c*) "Presidency of Madras" includes the territories for the time being under the government of the Governor of Fort St. George in Council, the province of Coorg, and such of the

[1] For notification under this section in conjunction with section 58 including certain native States in the presidencies and provinces constituted for the purposes of the Act, *see* General Statutory Rules and Orders, Vol. IV, p. 430.

territories of Native States aforesaid as the Governor General in Council may, by [1]notification in the Gazette of India, direct :

(*10*) "Presidency" means any of the Presidencies mentioned in clause (*9*) :

[2][(*11*) "Revenues of the Government" means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act.]

PART II.

THE OFFICE OF ADMINISTRATOR GENERAL.

Appointment and designation of the Administrators General in the three Presidencies.

3. (*1*) In each of the Presidencies of Bengal, Madras and Bombay, the Government shall appoint an Administrator General.

(*2*) No person shall be appointed to the office of Administrator General of any of the said Presidencies who is not—

(*a*) a Barrister; or

(*b*) an Advocate, Attorney or Vakil enrolled by a High Court; or

(*c*) a person holding the office of Deputy Administrator General at the commencement of this Act.

(*3*) The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment and powers of Deputy Administrators General.

4. The Government may appoint a Deputy or Deputies to assist the Administrator General; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to exercise any of the powers of the Administrator General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator General.

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[1] *See* footnote under clause (*a*).

[2] This clause was added by s. 5 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

Administrator General to be a corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name.

5. The Administrator General shall be a corporation sole by the name of the Administrator General of the Presidency for which he is appointed and, as such Administrator General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE ADMINISTRATOR GENERAL.

(a) Grants of Letters of Administration and Probate.

As regards Administrator General, High Court at Presidency-town to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration.

6. So far as regards the Administrator General of any Presidency, the High Court at the Presidency-town shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force wheresoever within the Presidency the estate to be administered is situate.

Administrator General entitled to letters of administration, unless granted to next-of-kin.

7. Any letters of administration, which are granted after the commencement of this Act by the High Court at any Presidency-town, shall be granted to the Administrator General of the Presidency, unless they are granted to the next-of-kin of the deceased.

Administrator General entitled to letters of administration in preference to creditor, non-universal legatee or friend.

8. The Administrator General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration other than letters *pendente lite* in preference to that of—

(*a*) a creditor; or

(*b*) a legatee other than an universal legatee; or

(*c*) a friend of the deceased.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

9. If any person, not being an exempted person, has died leaving within any Presidency assets exceeding the value of [1][two thousand] rupees,

When Administrator General is to administer estates of persons other than exempted persons.

and if no person to whom any Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will, or for letters of administration of his estate,

the Administrator General of the Presidency in which such assets are shall, subject to any rules made by the Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court at the Presidency-town letters of administration of the estate of such person.

10. Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at a Presidency-town, the Court, on being satisfied that danger is to be apprehended of misappropriation, deterioration or waste of such assets unless letters of administration of the estate of such person are granted, may upon the application of the Administrator General or of any person interested in such assets or in the due administration thereof, make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as the Court thinks fit, directing the Administrator General to apply for letters of administration of the estate of such person:

Power to direct Administrator General to apply for administration.

Provided that, in the case of an application being made under this section for letters of administration of the estate of an exempted person, the Court may refuse to grant letters of administration, if it is satisfied that such grant is unnecessary for the protection of the assets; and in such case the Court shall make such order as to the costs of the application as it thinks fit.

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1 These words were substituted for the words "one thousand" by s. 2 of the Administrator General's (Amendment) Act, 1926 (32 of 1926).

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

Power to direct Administrator General to collect and hold assets until right of succession or administration is determined.

11. (*1*) Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts,

and such Court is satisfied that there is no person immediately available, who is legally entitled to the succession to such assets, or that danger is to be apprehended of misappropriation, deterioration or waste of such assets, before it can be determined who may be legally entitled to the succession thereto, or whether the Administrator General is entitled to letters of administration of the estate of such deceased person,

the Court may, upon the application of the Administrator General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realize, sell or invest the same according to the directions of the Court, and in default of any such directions according to the provisions of this Act so far as the same are applicable to such assets.

(*2*) Any order of the Court made under the provisions of this section shall entitle the Administrator General,

(*a*) to maintain any suit or proceeding for the recovery of such assets, and

(*b*) if he thinks fit, to apply for letters of administration of the estate of such deceased person, and

(*c*) to retain out of the assets of the estate any fees chargeable under rules made under this Act, and to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator General under sections 9, 10 and 11.

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, any person appears and establishes his claim—

(*a*) to probate of the will of the deceased; or

(*b*) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

13. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10 or section 11, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, within such period as to the Court seems reasonable,

Grant of administration to Administrator General in certain cases.

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law,

the Court may grant letters of administration to the Administrator General.

14. Nothing in this Act shall be deemed to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters within one month after death.

(b) Estates of Persons subject to the Army Act [1][or the Air Force Act].

[55 & 56 Vict., c. 57.]

15. Nothing in this Act shall be deemed to affect the provisions of the [2]Regimental Debts Act, 1893.

Act not to affect Regimental Debts Act, 1893

[55 & 56 Vict., c. 57.]

16. It shall not be necessary for the Administrator General to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the [2]Regimental Debts Act, 1893, if the value of such estate does not on the date when such administration is committed to him exceed rupees one thousand, but he shall have the same power in regard to such estate as he would have had if letters of administration had been granted to him.

Letters of administration not necessary in respect of small estates administered by Administrator General in accordance with the Regimental Debts Act, 1893.

[55 & 56 Vict., c. 57.]

17. If the Administrator General applies, in accordance with the provisions of the [2]Regimental Debts Act, 1893, for letters of administration of the estate of any person subject to the Army Act [1][or the Air Force Act], the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the [2]Regimental Debts Act, 1893.

Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.

[1] These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

[2] Coll. Stats. Ind., Vol. II.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

(c) Revocation of Grants.

Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin.

18. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto establishes to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration granted in accordance with the provisions of this Act to the Administrator General may be revoked, and probate or letters of administration may be granted to such executor or next-of-kin as the case may be :

Provided that no letters of administration granted to the Administrator General shall be revoked for the cause aforesaid, except in cases in which a will of the deceased is proved in the Presidency, unless the application for that purpose is made within six months after the grant to the Administrator General and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator General out of assets

19. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of the estate :

Provided that nothing in this section shall affect the provisions of clause (c) of sub-section (2) of section 11.

After revocation, letters granted to Administrator General to be deemed as to him to have been voidable only.

20. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void :

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such

notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay

21. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation. Payments made by Administrator General prior to revocation.

(d) General

22. Whenever any Administrator General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states, Administrator General's petition for grant of letters of administration.

(i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner,

(ii) the names and addresses of the surviving next-of-kin of the deceased if known,

(iii) the particulars and value of the assets likely to come into the hands of the petitioner,

(iv) particulars of the liabilities of the estate if known.

23. *(1)* All probates or letters of administration granted to any Administrator General shall be granted to him by that name, and all probates or letters of administration heretofore granted to the Ecclesiastical Registrar, or to the Administrator General of any Presidency shall authorise the Administrator General of the same Presidency to act as executor or administrator, as the case may be, of the estate to which such probate or letters relate. Probates or letters to be granted to Administrator General by his name of office, and powers of that officer in cases in which probate or letters of administration have been granted to the Ecclesiastical Registrar.

(2) All probates and letters of administration granted to the Ecclesiastical Registrar of any of the late Supreme Courts shall have the same effect in all respects as to any act hereafter done or required to be done under this Act as if they had been granted to the Administrator General.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

Effect of probate or letters granted to Administrator General.

24. Probate or letters of administration granted by the High Court at any Presidency-town to the Administrator General of any Presidency shall have effect over all the assets of the deceased throughout such Presidency, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator General:

Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout one or more of the other Presidencies.

Whenever a grant is made by a High Court to the Administrator General with such effect as last aforesaid, the Court shall send to the other High Courts a certificate that such grant has been made, and such certificate shall be filed by the Courts receiving the same.

Transfer by private executor or administrator of interest under probate or letters.

25. (*1*) Any private executor or administrator may with the previous consent of the Administrator General of the Presidency in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate, by an instrument in writing under his hand notified in the official Gazette, transfer the assets of the estate vested in him by virtue of such probate or letters to the Administrator General by that name or any other sufficient description.

(*2*) As from the date of such transfer the transferor shall be exempt from all liability as such executor or administrator, as the cases may be, except in respect of acts done before the date of such transfer, and the Administrator General shall have the rights which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

Distribution of assets.

26. (*1*) When the Administrator General has given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

(2) He shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator General shall affect him unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor to the Administrator General and the date of the final decision of the Administrator General on such claim shall be excluded.

Appointment of Official Trustee as trustee of assets after completion of administration.

27. (1) When the Administrator General has, so far as may be, discharged all the liabilities of an estate administered by him, he shall notify the fact in the official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands.

(2) Upon such appointment such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the [1]Official Trustees Act, 1913, and shall be held by him upon the same trusts as the same were held immediately before such appointment.

Power for High Court to give directions regarding administration of estate.

28. (1) The High Court at the Presidency-town may, on application made to it, give to the Administrator General of the presidency any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

(2) Applications under sub-section (1) may be made by the Administrator General or any person interested in the assets or in the due administration thereof.

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[1] *Supra*, p. 337.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

No security nor oath to be required from Administrator General.

29. (*1*) No Administrator General shall be required by any Court to enter into any administration-bond, or to give other security to the Court, on the grant of any letters of administration to him by that name.

Manner in which petitions to be verified by Administrator General and his Deputy.

(*2*) No Administrator General or Deputy Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Entry of Administrator General not to constitute notice of a trust.

(*3*) The entry of the Administrator General by that name in the books of a Company shall not constitute notice of a trust, and a Company shall not be entitled to object to enter the name of the Administrator General on its register by reason only that the Administrator General is a corporation and in dealing with assets the fact that the person dealt with is the Administrator General shall not of itself constitute notice of a trust.

Power to examine on oath.

30. The Administrator General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be so examined by him regarding such question.

(e) Grant of Certificates.

In what case Administrator General may grant certificate.

31. Whenever any person has died leaving assets within any Presidency, and the Administrator General of such Presidency is satisfied that such assets excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the [1]Provident Funds Act, 1897, apply, did not at the date of death exceed **IX of 1897.** in the whole [2][two thousand] rupees—in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a

[1] *See* now the Provident Funds Act, 1925 (19 of 1925).

[2] These words were substituted for the words "one thousand" by s. 2 of the Administrator General's (Amendment) Act, 1926 (32 of 1926).

creditor to be interested in such assets, or in the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased, within the Presidency to a value not exceeding in the whole [1][two thousand] rupees :

Provided that no certificate shall be granted under this section—

(i) where probate of the deceased's will or letters of administration of his estate has or have been granted, or

(ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the [2]Provident Funds Act, 1897, apply.

IX of 1897.

Grant of certificate to creditors and power to take charge of certain estates.

32. If, in cases falling within section 31, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased a certificate from the Administrator General under the same section, or probate of a will or letters of administration of the estate of the deceased, and such deceased was not an exempted person, or was an exempted person who has left assets within the ordinary original civil jurisdiction of the High Court, or within any area notified by the Government in this behalf in the official Gazette, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him;

and if he neglects or refuses to administer such estate, he shall, upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor,

and such certificate shall have the same effect as a certificate granted under the provisions of section 31, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Provided that the Administrator General may, before granting such certificate, if he thinks fit, require the creditor to give reasonable security for the due administration of the estate of the deceased.

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1 These words were substituted for the words "one thousand" by s. 2 of the Administrator General's (Amendment) Act, 1926 (32 of 1926).

2 *See* now the Provident Funds Act, 1925 (19 of 1925).

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

Administrator General not bound to grant certificate unless satisfied of claimant's title, etc.

33. The Administrator General shall not be bound to grant any certificate under section 31 or section 32 unless he is satisfied of the title of the claimant and of the value of the assets left by the deceased within the presidency either by the oath of the claimant, or by such other evidence as he requires.

Effect of certificate.

34. The holder of a certificate granted in accordance with the provisions of section 31 or section 32 shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him :

Provided that nothing in this section shall be deemed to require any person holding such certificate,

(*a*) to file accounts or inventories of the assets of the deceased before any Court or other authority, or

(*b*) save as provided in section 32 to give any bond for the due administration of the estate.

Revocation of certificate.

35. The Administrator General may revoke a certificate granted under the provisions of section 31 or section 32 on any of the following grounds, namely :—

(i) that the certificate was obtained by fraud or misrepresentation made to him,

(ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

Surrender of revoked certificate.

36. (*1*) When a certificate is revoked in accordance with the provisions of section 35, the holder thereof shall, on the requisition of the Administrator General, deliver it up to such Administrator General, but shall not be entitled to the refund of any fee paid thereon.

(*2*) If such person wilfully and without reasonable cause omits to deliver up the certificate he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

37. The Administrator General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate, under section 31 or section 32, but he may do so if he revokes such certificate under section 35 or ascertains that the value of the estate exceeded [1][two thousand] rupees.

Administrator General not bound to take out administration on account of assets for which he has granted certificate.

38. Where a person not having his domicile in British India has died leaving assets in any Presidency and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in any such Presidency have been taken under section 31 or section 32, and there has been a grant of administration in the country of domicile with respect to the assets in that country,

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

the holder of the certificate granted under section 31 or section 32, or the Administrator General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(f) Liability.

39. (1) The revenues of the Government [2]* * shall be liable to make good all sums required to discharge any liability which the Administrator General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those

Liability of Government.

[1] These words were substituted for the words "one thousand" by s. 2 of the Administrator General's (Amendment) Act, 1926 (32 of 1926).

[2] The words "of India" were omitted by s. 6 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

cases the Administrator General shall not, nor shall the revenues [1][of the Government or] of the Government of India, be subject to any liability.

(*2*) Nothing in sub-section (*1*) shall be deemed to render [1][the Government or] the Government of India or the Administrator General liable for anything done before the commencement of this Act, by or under the authority of the Administrator General.

Creditors' suits against Administrator General.

40. (*1*) If any suit be brought by a creditor against any Administrator General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator General was reasonably entitled to require.

(*2*) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

Notice of suit not required in certain cases.

41. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Administrator General in which no relief is claimed against him personally. **V of 1908.**

PART IV.

FEES.

Fees.

42. (*1*) There shall be charged in respect of the duties of the Administrator General such fees, whether by way of percentage or otherwise, as may be prescribed by the Government:

Provided that, in the case of any estate, the administration of which has been committed to the Administrator General before the commencement of this Act, the fees prescribed under this section shall not exceed the fees leviable in respect of such estate under the [2]Administrator General's Act, 1874, as subsequently amended: **II of 1874.**

Provided further that, in respect of the duties of the Administrator General under the [3]Regimental Debts Act, 1893, the fees prescribed in **55 & 56 Vict., c. 57.**

[1] These words were inserted by s. 6 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

[2] Repealed by the Administrator General's Act, 1913 (2 of 1913).

[3] Coll. of Stats. Ind., Vol. II.

this section shall be determined in accordance with the provisions of that Act.

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government [1]* * against loss under this Act).

Disposal of fees.

43. (1) Any expenses which might be retained or paid out of any estate in the charge of the Administrator General, if he were a private administrator of such estate, shall be so retained or paid and the fees prescribed under section 42 shall be retained or paid in like manner as and in addition to such expenses.

(2) The Administrator General shall transfer and pay to such authority, in such manner and at such time as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government [1] * *

PART V.

AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

Audit of Administrator General's accounts.

44. The accounts of every Administrator General shall be audited at least once annually, and at any other time if the Government so direct, by the prescribed person and in the prescribed manner.

Auditors to examine accounts and report to Government.

45. The auditors shall examine the accounts and forward to the Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them showing—

(a) whether they contain a full and true account of everything which ought to be inserted therein,

(b) whether the books which by any rules made under this Act are directed to be kept by the Administrator General, have been duly and regularly kept, and

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[1] The words "of India" were omitted by s. 7 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

(c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder,

or (as the case may be) that such accounts are deficient, or that the Administrator General has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in such certificate.

Power of auditors to summon and examine witnesses, and to call for documents.

46. (*1*) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, **V of 1908.**

(*a*) to summon any person whose presence he thinks necessary to attend him from time to time; and

(*b*) to examine any person on oath to be by him administered, and

(*c*) to issue a commission for the examination on interrogatories or otherwise of any person; and

(*d*) to summon any person to produce any document or thing the production of which appears to be necessary for the purpose of such audit or examination.

(*2*) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the auditor shall report every case of such refusal or neglect to Government. **XLV of 1860.**

Costs of audit, etc.

47. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the Government, and shall be defrayed in the prescribed manner.

PART VI.

MISCELLANEOUS.

General powers of administration.

48. The Administrator General may, in addition to and not in derogation of, any other powers of expenditure lawfully exerciseable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and

(*Part VI.—Miscellaneous.*)

(*b*) with the sanction of the High Court at the Presidency-town on such religious, charitable and other objects, and on such improvements as may be reasonable and proper in the case of such property.

49. Any person interested in the administration of any estate, which is in the charge of the Administrator General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

Power of person beneficially interested to inspect Administrator General's accounts, etc., and take copies.

50. (*1*) The Government shall make [1]rules for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator General.

Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the accounts to be kept by the Administrator General and the audit and inspection thereof,

(*b*) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator General,

(*c*) the remittance of sums of money in the hands of the Administrator General in cases in which such remittances are required,

(*d*) subject to the provisions of this Act, the fees to be paid under this Act, and the collection and accounting for any such fees,

(*e*) the statements, schedules and other documents to be submitted to the Government or to any other authority by the Administrator General, and the publication of such statements, schedules or other documents,

(*f*) the realization of the cost of preparing any such statements, schedules or other such documents,

[2]* * * * * *

[1] For such rules for Bengal, *see* General Statutory Rules and Orders, Vol. IV, p. 406;
for Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, Pt. II, p. 231;
for Bombay, *see* Bombay Local Rules and Orders, 1924, Vol. II, p. 773;
for the provinces of Assam, U. P., Punjab and Burma, *see* the local Gazettes of 1914 or the latest editions of the Rules and Orders of those provinces.

[2] Clause (*ff*) which was added by the Repealing and Amending Act, 1914 (10 of 1914), was repealed by s. 6 and Sch. of the Destruction of Records Act, 1917 (5 of 1917).

(*Part VI.—Miscellaneous.*)

(*g*) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed,

(*h*) the manner in which summonses issued under the provisions of section 46 are to be served and the payment of the expenses of any persons summoned or examined under the provisions of this Act and of any expenditure incidental to such examination, and

(*i*) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

False evidence.

51. Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Assets unclaimed for twelve years to be transferred to Government.

52. All assets in the charge of the Administrator General which have been in his custody for a period of twelve years or upwards whether before or after the commencement of this Act without any application for payment thereof having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government [1] * * * :

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any Court.

Mode of proceeding by claimant to recover principal money so transferred.

53. (*1*) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government [1] * * under the provisions of this Act, or any Act hereby repealed, and if such claim is established to the satisfaction of the prescribed authority, the Government [1] * * shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as appears to be due to the claimant.

[1] The words "of India" were omitted by s. 7 of the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922).

(*Part VI.—Miscellaneous.*)

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court at the Presidency-town against the Secretary of State for India in Council, and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceeding.

(3) The Court may further direct by whom the whole or any part of the cost of each party shall be paid.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

54. (*1*) Whenever any person, other than an exempted person, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the Presidency, stating the following particulars so far as they may be known to him:—

(*a*) the amount and nature of the assets,

(*b*) whether or not the deceased left a will and, if so, in whose custody it is,

(*c*) the names and addresses of the surviving next-of-kin of the deceased,

and, on the lapse of one month from the date of the death,

(*d*) whether or not any one has applied for probate of the will of the deceased or letters of administration of his estate.

(*2*) The District Judge shall retain the assets under his charge, or appoint an officer under the provisions of [1]section 239 of the Indian Succession Act, 1865, to take and keep possession of the same until the Administrator General has obtained letters of administration, or until some other person has obtained probate or such letters or a certificate from the Administrator General under the provisions of this Act, when the assets shall be delivered over to the holder of such probate, letters of administration or certificate:

X of 1865.

Provided that the District Judge may, if he thinks fit, sell any assets which are subject to speedy and natural decay, or which for any other sufficient cause he thinks should be sold, and he shall thereupon credit the proceeds of such sale to the estate.

[1] *See* now section 269 of the Indian Succession Act, 1925 (39 of 1925).

(Part VI.—Miscellaneous)

(iii) the powers and duties assigned by the foregoing provisions of this Act to the High Court shall be exercised and discharged in respect of such province by such Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf; and probate or letters of administration granted to the Administrator General of the Province by the Court so appointed shall have the same effect throughout the Province, or, if the Court so directs, throughout the Presidencies of Bengal, Bombay and Madras, or any part thereof, as probate or letters of administration granted to the Administrator General by the High Court at a Presidency-town would or might have had:

(iv) in the foregoing provisions of this Act the word "Presidency" shall be deemed to include a Province, and the expression "Presidency-town" the place of sitting of the Court appointed by the Governor General in Council under clause (iii) of this sub-section:

(v) generally, the provisions of the foregoing sections of this Act with respect to the High Court as a Presidency-town and the provisions of those sections or of any other enactment with respect to the Administrator General of a Presidency shall, in relation to a Province, be construed, so far as may be, to apply to the Court and Administrator General, respectively, appointed for the province under this section.

(2) Any proceeding which was commenced before the publication of the notification constituting the Province and to or in which the Administrator General of any Presidency within which any of the territories constituted into a Province were situate was a party or was otherwise concerned, shall be continued as if the notification had not been published.

(3) If, by reason of the constitution of Provinces for the purposes of this Act, it appears to the Governor General in Council that any property vested in the Administrator General of any Presidency should be vested in the Administrator General of a province, he may direct that the property shall be so vested, and thereupon it shall vest in the Administrator General of the Province as fully and effectually for the purposes of this Act as if probate or letters of administration had been granted to him originally.

(Part VI.—Miscellaneous.)

(4) If in accordance with the provisions of this section territories have been removed from the Presidency of Bengal and constituted a Province for the purposes of this Act, the Governor General in Council may, by notification[1] in the Gazette of India, direct that as regards the Presidency of Bengal excluding the territories so removed, the powers and duties of the Government under this Act shall be exercised and discharged by the Local Government of Bengal, and that the official Gazette shall be the Calcutta Gazette.

(5) Upon the recission of a notification constituting a Province under sub-section (1), the territories comprised therein shall again form part of the Presidency within which they were originally included, the office of Administrator General of the Province shall determine and all properties vested in and all proceedings by or against such Administrator General pending at the date of the recission shall vest in and be carried on by or against such Administrator General or Administrators General as the Governor General in Council may direct.

Saving of provisions of Indian Registration Act, 1908.

59. Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908. XVI of 1908.

60. [*Repeals.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

[THE SCHEDULE.]

[*Enactments repealed.*] *Repealed by the Repealing Act, 1927* (*12 of 1927*).

[1] For such notification, *see* General Statutory Rules and Orders, Vol. IV, p. 432.

ACT No V of 1913 [1]

[*7th March, 1913.*]

An Act to prohibit the importation, manufacture and sale of matches made with white phosphorus.

WHEREAS it is expedient to prohibit the importation, manufacture and sale of matches made with white phosphorus, It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the White Phosphorus Matches Prohibition Act, 1913.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of July, 1913, with the exception of section 6, which shall come into force on the first day of July, 1914.

Definition.

2. In this Act, "white phosphorus" means the substance commonly known as white or yellow phosphorus.

Prohibition of importation by addition to section 18, Act VIII of 1878.

3. To section 18 of the Sea Customs Act, 1878, the following clause shall be added, namely :— **VIII of 18[78]**

" (*g*) matches made with white prosphorus."

Prohibition of use of white phosphorus in manufacture of matches.

4. (*1*) No person shall use white phosphorus in the manufacture of matches.

(*2*) Any person who uses, or permits the use by any person under his control, of white phosphorus in the manufacture of matches, shall be punishable with fine which may extend to two hundred rupees.

Power of Inspector of Factories to take samples of material used in manufacture.

5. (*1*) Every person who manufactures matches shall allow an Inspector of Factories appointed under the Indian Factories Act, 1911, **XII of 19[11]**

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 220; for Report of Select Committee, *see ibid*, 1913, Pt. V, p. 35; and for Proceedings in Council, *see ibid*, 1913, Pt. VI, pp. 16, 64, and 146.

This Act has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (II of 1913), *see* Bal. Code; in the Arakan Hill District by Regulation I of 1916, s. 2, *see* Bur. Code, Vol. I; in the Sonthal Parganas by Notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), *see* B. & O. Gazette, 1914, Pt. II, p 413

at any time to take for analysis sufficient samples of any material in use or mixed for use, in such manufacture

Provided that any such person may, at the time the sample is taken, and on providing the necessary appliances, require the Inspector to divide the sample so taken into two parts, and to mark, seal and deliver to him one part.

(2) Any person who refuses to permit any such Inspector of Factories as aforesaid to take a sample, in accordance with the provisions of sub-section (1), shall be punishable with fine which may extend to two hundred rupees.

6. (1) No person shall sell, or offer or expose for sale, or have in his possession for the purposes of sale, any matches made with white phosphorus. **Prohibition of sale.**

(2) Any person who contravenes the provisions of sub-section (1) may, on complaint to a Presidency Magistrate, Sub-divisional Magistrate or Magistrate of the first class, be ordered to forfeit any such matches in his possession, and any matches so forfeited shall be destroyed or otherwise dealt with as the Magistrate may direct.

ACT No. VI OF 1913.[1]

[*7th March, 1913.*]

An Act to declare the rights of Mussalmans to make settlements of property by way of "wakf" in favour of their families, children and descendants.

WHEREAS doubts have arisen regarding the validity of wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts; It is hereby enacted as follows :—

1. (1) This Act may be called the Mussalman Wakf Validating Act, 1913. **Short title and extent.**

(2) It extends to the whole of British India.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 107; for Report of Select Committee, *see ibid*, 1913, Pt. V, p. 39; and for Proceedings in Council, *see ibid*, 1911, Pt. VI, p. 402, and *ibid*, 1913, Pt. VI, pp. 29, 65 and 147.

It has been declared in force in the Sonthal Parganas by Notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), *see* B. & O. Gazette, 1914, Pt. II, p. 413.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognized by the Mussalman law as religious, pious or charitable.

(2) "Hanafi Mussalman" means a follower of the Mussalman faith who conforms to the tenets and doctrines of the Hanafi school of Mussalman law.

Power of Mussalmans to create certain wakfs.

3. It shall be lawful for any person professing the Mussalman faith to create a wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following among other purposes:—

(a) for the maintenance and support wholly or partially of his family, children or descendants, and

(b) where the person creating a wakf is a Hanafi Mussalman, also for his own maintenance and support during his lifetime or for the payment of his debts out of the rents and profits of the property dedicated:

Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussalman law as a religious, pious or charitable purpose of a permanent character.

Wakfs not to be invalid by reason of remoteness of benefit to poor, etc.

4. No such wakf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the wakf.

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5. Nothing in this Act shall affect any custom or usage whether local or prevalent among Mussalmans of any particular class or sect.

THE INDIAN COMPANIES ACT, 1913.

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ACT No. VII OF 1913.[1]

[27th March, 1913.]

An Act to consolidate and amend the law relating to Trading Companies and other Associations.

WHEREAS it is expedient to consolidate and amend the law relating to Trading Companies and other Associations; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, commencement and extent.

1. (1) This Act may be called the Indian Companies Act, 1913.

(2) It shall come into force on the first day of April 1914; and

(3) It extends to the whole of British India including British Baluchistan and the Santhal Parganas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "articles" means the articles of association of a company as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in [2]Table B in the Schedule annexed to Act No. XIX of 1857 or in [3]Table A in the First Schedule annexed to the [4]Indian Companies Act, 1882, or in Table A in the First Schedule annexed to this Act: VI of 1882.

(2) "company" means a company formed and registered under this Act or an existing company:

(3) "the Court" means the Court having jurisdiction under this Act:

(4) "debenture" includes debenture stock:

(5) "director" includes any person occupying the position of a director by whatever name called:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1912, Pt. V, p. 151; for Report of the Select Committee, *see ibid*, 1913, Pt. V, p. 45; and for Proceedings in Council, *see ibid*, 1912, Pt. VI, p. 586, and *ibid*, 1913, Pt. VI, pp. 6, 106, and 300.

[2] *See* Appendix I, p. 565, *infra*.

[3] *See* Appendix II, p. 578, *infra*.

[4] Repealed by this Act.

(*Part I.—Preliminary.*)

(*6*) "District Court" means the principal Civil Court of original jurisdiction in a district, but does not include a High Court in the exercise of its ordinary original civil jurisdiction :

(*7*) "existing company" means a company formed and registered under the [1]Indian Companies Act, 1866, or under any Act or Acts repealed thereby, or under the [1]Indian Companies Act, 1882 :

X of 1866.

VI of 1882.

(*8*) "Insurance company" means a company that carries on the business of insurance either solely or in common with any other business or businesses :

(*9*) "manager" includes any person occupying the position of a manager by whatever name called and whether under a contract of service or not :

(*10*) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Act :

(*11*) "officer" includes any director, manager or secretary but, save in sections 235, 236, and 237, does not include an auditor :

(*12*) "prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by rules made by the High Court, and, as respects the other provisions of this Act, prescribed by the Governor General in Council :

(*13*) "private company" means a company which

(i) by its articles—

(*a*) restricts the right to transfer its shares ; and

(*b*) limits the number of its members (exclusive of persons who are in the employ of the company) to fifty ; and

(*c*) prohibits any invitation to the public to subscribe for any shares or debentures of the company : and

(ii) continues to observe such restrictions, limitations and prohibitions :

Provided that where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this definition, be considered as a single member :

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[1] Repealed by the Indian Companies Act, 1882 (6 of 1882), which was in turn repealed by this Act

(*14*) " prospectus " means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company :

(*15*) " the registrar " means a registrar or assistant registrar performing under this Act the duty of registration of companies : and

(*16*) " share " means share in the share capital of the company, and includes stock except when a distinction between stock and shares is expressed or implied.

Jurisdiction of the Courts.

3. (*1*) The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situate :

Provided that the Local Government may, by notification in the local official Gazette and subject to such restrictions and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court, and in that case such District Court shall, as regards the jurisdiction so conferred, be the Court in respect of all companies having their registered offices in the district.

(*2*) For the purposes of jurisdiction to wind up companies, the expression ' registered office ' means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(*3*) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong Court.

PART II.

CONSTITUTION AND INCORPORATION.

Prohibition of partnerships exceeding certain number.

4. (*1*) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or of Royal Charter or Letters Patent.

(*Part II.—Constitution and Incorporation.*)

(*2*) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council or of Royal Charter or Letters Patent.

Memorandum of Association.

Mode of forming incorporated company.

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

(*i*) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or

(*ii*) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed a company limited by guarantee); or

(*iii*) a company not having any limit on the liability of its members (in this Act termed an unlimited company).

Memorandum of company limited by shares.

6. In the case of a company limited by shares—

(*1*) the memorandum shall state—

(*i*) the name of the company, with "Limited" as the last word in its name;

(*ii*) the province in which the registered office of the company is to be situate;

(*iii*) the objects of the company;

(*iv*) that the liability of the members is limited;

(Part II.—Constitution and Incorporation.)

(*v*) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount:

(*2*) no subscriber of the memorandum shall take less than one share:

(*3*) each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of company limited by guarantee.

7. In the case of a company limited by guarantee—

(*1*) the memorandum shall state—

(*i*) the name of the company, with "Limited" as the last word in its name;

(*ii*) the province in which the registered office of the company is to be situate;

(*iii*) the objects of the company;

(*iv*) that the liability of the members is limited;

(*v*) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount:

(*2*) if the company has a share capital—

(*i*) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(*ii*) no subscriber of the memorandum shall take less than one share;

(*iii*) each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of unlimited company.

8. In the case of an unlimited company—

(*1*) the memorandum shall state—

(*i*) the name of the company;

(*ii*) the province in which the registered office of the company is to be situate;

(*iii*) the objects of the company;

(*Part II.—Constitution and Incorporation.*)

(*2*) if the company has a share capital—

(*i*) no subscriber of the memorandum shall take less than one share;

(*ii*) each subscriber shall write opposite to his name the number of shares he takes.

9. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature. Signature of memorandum.

10. A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act. Restriction on alteration of memorandum.

11. (*1*) A company shall not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires. Name of company and change of name.

(*2*) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name.

(*3*) A company shall not be registered by a name which contains any of the following words, namely:—"Crown", "Emperor", "Empire", "Empress", "Imperial", "King", "Queen", "Royal", [1]["Bank of Bengal", "Bank of Madras", "Bank of Bombay",] or words expressing or implying the sanction, approval or patronage of the Crown or the Government of India or a Local Government, except where the Governor General in Council signifies his consent to the use of such words as part of the name of the company by order in writing under the hand of one of the Secretaries to the Government of India:

Provided that nothing in this sub-section shall apply to companies registered before the commencement of this Act.

(*4*) Any company may, by special resolution and subject to the approval of the Local Government signified in writing, under the hand of one of the Secretaries to such Government, change its name.

[1] These words were inserted by s. 33 of the Imperial Bank of India Act, 1920 (47 of 1920).

(Part II.—Constitution and Incorporation.)

(*5*) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(*6*) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company; and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of memorandum.

12. (*1*) Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from one province to another, or with respect to the objects of the company, so far as may be required to enable it—

(*a*) to carry on its business more economically or more efficiently; or

(*b*) to attain its main purpose by new or improved means; or

(*c*) to enlarge or change the local area of its operations; or

(*d*) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(*e*) to restrict or abandon any of the objects specified in the memorandum.

(*2*) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(*3*) Before confirming the alteration, the Court must be satisfied—

(*a*) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(*b*) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been

discharged or has determined, or has been secured to the satisfaction of the Court.

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

13. The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper. **Power of Court when confirming alteration.**

14. The Court shall, in exercising its discretion under sections 12 and 13, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement: **Exercise of discretion by Court.**

Provided that no part of the capital of the company may be expended in any such purchase.

15. *(1)* A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company. **Procedure on confirmation of the alteration.**

(2) Where the alteration involves a transfer of the registered office from one province to another, a certified copy of the order confirming such change shall be filed by the company with the registrar in each of such provinces, and each of such registrars shall register the same, and shall certify under his hand the registration thereof, and the registrar for the province from which such office is transferred shall send to the registrar for the other province all documents relating to the company registered or filed in his office.

(3) The Court may by order at any time extend the time for the filing of documents with the registrar under this section for such period as the Court thinks proper.

(*Part II.—Constitution and Incorporation.*)

Effect of failure to register within three months.

16. No such alteration shall have any operation until registration thereof has been duly effected in accordance with the provisions of section 15, and if such registration is not effected within three months next after the date of the order of the Court confirming the alteration, or within such further time as may be allowed by the Court in accordance with the provisions of section 15, such alteration and order and all proceedings connected therewith shall, at the expiration of such period of three months or such further time, as the case may be, become absolutely null and void :

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

Articles of Association

Registration of articles.

17. (*1*) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

(*2*) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule.

(*3*) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(*4*) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for the purpose of enabling the registrar to determine the fees payable on registration.

Application of Table A.

18. In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

(*Part II.—Constitution and Incorporation.*)

19. Articles shall— **Form and signature of articles.**

(*a*) be printed;

(*b*) be divided into paragraphs numbered consecutively; and

(*c*) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature.

20. (*1*) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution. **Alteration of articles by special resolution.**

(*2*) The power of altering articles under this section shall, in the case of any company formed and registered under Act No. XIX of 1857 and [1]Act No. VII of 1860 or either of them, extend to altering any provisions in Table B[2] annexed to Act XIX of 1857, and shall also, in the case of an unlimited company formed and registered under the said Acts or either of them, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

General Provisions.

21. (*1*) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member and contained a covenant on the part of each member, his heirs, and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act. **Effect of memorandum and articles.**

(*2*) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

22. The memorandum and the articles (if any) shall be filed with the registrar for the province in which the registered office of the company is stated by the memorandum to be situate, and he shall retain and register them. **Registration of memorandum and articles.**

1 This Act was repealed by the Indian Companies Act, 1866 (10 of 1866), which again was repealed by the Indian Companies Act, 1882 (6 of 1882), which was also repealed by this Act.

2 For Table B of Act 19 of 1857, *see* Appendix I to this Act *infra*, p. 565.

(Part II.—Constitution and Incorporation.)

Effect of registration.

23. (*1*) On the registration of the memorandum of a company, the registrar shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited.

(*2*) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Conclusiveness of certificate of incorporation.

24. (*1*) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

(*2*) A declaration by an advocate, attorney or pleader entitled to appear before a High Court who is engaged in the formation of a company, or by a person named in the articles as a director, manager or secretary of the company, of compliance with all or any of the said requirements shall be filed with the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

Copies of memorandum and articles to be given to members.

25. (*1*) Every company shall send to every member, at his request, and on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

(*2*) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding ten rupees.

Associations not for Profit.

Power to dispense with "Limited" in name of charitable and other companies.

26. (*1*) Where it is proved to the satisfaction of the Local Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, [1][religion], charity, or any other useful object, and applies or intends

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[1] This word was inserted by s. 2 of the Indian Companies (Amendment) Act, 1926 (33 of 1926).

to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct that the association[1] be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A license by the Local Government under this section may be granted on such conditions and subject to such regulations as the Local Government thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Local Government so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of filing lists of members and directors and managers with the registrar.

(4) A license under this section may at any time be revoked by the Local Government, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section:

Provided that, before a license is so revoked, the Local Government shall give to the association notice in writing of its intention, and shall afford the association an opportunity of submitting a representation in opposition to the revocation.

Companies limited by Guarantee.

27. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the commencement of this Act, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void. **Provision as to companies limited by guarantee.**

1 For such associations in Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, p. 440.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of any company limited by guarantee and registered after the commencement of this Act, purporting to divide the undertaking of the company into shares or interests, shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

PART III.

SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital.

Nature of shares.

28. (1) The shares or other interest of any member in a company shall be moveable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

Certificate of shares or stock.

29. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be *primâ facie* evidence of the title of the member to the shares or stock therein specified.

Definition of "member".

30. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

31. (*1*) Every company shall keep in one or more books a register of its members, and enter therein the following particulars:— **Register of members.**

(*i*) the names and addresses, and the occupations, if any, of the members and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(*ii*) the date at which each person was entered in the register as a member;

(*iii*) the date at which any person ceased to be a member.

(*2*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

32. (*1*) Every company having a share capital shall once at least in every year make a list of all persons who, on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company. **Annual list of members and summary.**

(*2*) The list shall state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and persons who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

(*a*) the amount of the share capital of the company, and the number of the shares into which it is divided;

(*Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.*)

(*b*) the number of shares taken from the commencement of the company up to the date of the return ;

(*c*) the amount called up on each share ;

(*d*) the total amount of calls received ;

(*e*) the total amount of calls unpaid ;

(*f*) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;

(*g*) the total number of shares forfeited ;

(*h*) the total amount of shares or stock for which share-warrants are outstanding at the date of the return ;

(*i*) the total amount of share-warrants issued and surrendered respectively since the date of the last return ;

(*k*) the number of shares or amount of stock comprised in each share-warrant ;

(*l*) the names and addresses of the persons who at the date of the return are the directors of the company and of the persons (if any) who at the said date are the managers of the company ; and

(*m*) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act.

(*3*) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the day of the ~~first or~~ only ordinary general meeting in the year, and the company shall forthwith file with the registrar a copy signed by a director or by the manager or the secretary of the company, together with a certificate from such director, manager or secretary that the list and summary state the facts as they stood on the day aforesaid.

(*4*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the

company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Trusts not to be entered on register.

33. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar

Registration of transfer at request of transferor.

34. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Transfer by legal representative.

35. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer.

Inspection of register of members.

36. *(1)* The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions, as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of one rupee, or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Act, or any part thereof, on payment of six annas for every hundred words or fractional part thereof required to be copied.

(3) If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall be liable to the like penalty, and the Court may by order compel an immediate inspection of the register.

Power to close register.

37. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power of Court to rectify register.

38. (*1*) If—

(*a*) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members of a company; or

(*b*) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(*2*) The Court may either refuse the application, or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved, and may make such order as to costs as it in its discretion thinks fit.

(*3*) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register:

Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal from the decision on such an issue shall lie in the manner directed by the Code of Civil Procedure, 1908, on the grounds mentioned in section 100 of that Code. **V of 1908.**

Notice to registrar of rectification of register.

39. In the case of a company required by this Act to file a list of its members with the registrar, the Court, when making an order for rectification of the register, shall, by its order, direct notice of the rectification to be filed with the registrar.

Register to be evidence.

40. The register of members shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

41. (*1*) A company having a share capital may, if so authorised by its articles, cause to be kept in the United Kingdom a branch register of members (in this Act called a British register). **Power for company to keep branch register in the United Kingdom.**

(*2*) The company shall, within one month from the date of the opening of any British register, file with the registrar notice of the situation of the office where such register is kept and, in the event of any change in the situation of such office or of its discontinuance, shall within one month from the date of such change or discontinuance, as the case may be, file notice of such change or discontinuance.

(*3*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

42. (*1*) A British register shall be deemed to be part of the company's register of members (in this section called the principal register). **Regulations as to British register.**

(*2*) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the locality wherein the British register is kept.

(*3*) The company shall transmit to its registered office in India a copy of every entry in its British register as soon as may be after the entry is made; and shall cause to be kept at such office, duly entered up from time to time, a duplicate of its British register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(*4*) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a British register shall, during the continuance of that registration, be registered in any other register.

(*5*) The company may discontinue to keep any British register, and thereupon all entries in that register shall be transferred to the principal register.

(*6*) Subject to the provisions of this Act, any company may, by its articles, make such regulations as it may think fit respecting the keeping of a British register.

Issue of share-warrants to bearer.

43. A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share-warrant.

Effect of share warrant.

44. A share-warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

Registration of name of bearer of share-warrant.

45. The bearer of a share-warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share-warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

Position of bearer of share-warrant.

46. The bearer of a share-warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles, except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

Entries in register when share-warrant issued.

47. (*1*) On the issue of a share-warrant, the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely :—

(i) the fact of the issue of the warrant:

(ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number; and

(iii) the date of the issue of the warrant.

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(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully continues or permits the default shall be liable to the like penalty.

Surrender of share-warrant.

48. Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members; and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

Power of company to arrange for different amounts being paid on shares.

49. A company, if so authorised by its articles, may do any one or more of the following things, namely:—

(1) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;

(2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up;

(3) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of company limited by shares to alter its share capital.

50. (1) A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum as follows (that is to say), it may—

(*a*) increase its share capital by the issue of new shares of such amount as it thinks expedient;

(*b*) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*c*) convert all or any of its paid-up shares into stock and re-convert that stock into paid-up shares of any denomination;

(*d*) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so however, that in the sub-division the proportion between the amount paid

and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(*e*) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(*2*) The powers conferred by this section with respect to sub-division of shares must be exercised by special resolution.

(*3*) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(*4*) If a company makes default in complying with the requirements of sub-section (*3*), it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(*5*) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

Notice to registrar of consolidation of share capital, conversion of shares into stock, etc.

51. (*1*) Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares or converted any of its shares into stock, or re-converted stock into shares, it shall within fifteen days of the consolidation and division, conversion or re-conversion, file notice with the registrar of the same, specifying the share consolidated and divided, or converted, or the stock re-converted.

(*2*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

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Effect of conversion of shares into stock.

52. Where a company having a share capital has converted any of its shares into stock, and filed notice of the conversion with the registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be filed with the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

Notice of increase of share capital or of members.

53. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall file with the registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorising the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the registrar shall record the increase.

(2) If a company makes a default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Reorganization of share capital.

54. (1) A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes:

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

(2) Where an order is made under this section, a certified copy thereof shall be filed with the registrar within twenty-one days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed.

Reduction of Share Capital.

Reduction of share capital.

55. (1) No company limited by shares shall have power to buy its own shares unless the consequent reduction of capital is effected and sanctioned in manner hereinafter provided.

(2) Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) may—

(*a*) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(*b*) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(*c*) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(3) A special resolution under this section is in this Act called a resolution for reducing share capital.

Application to Court for confirming order.

56. Where a company has passed and confirmed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

Addition to name of company of "and reduced."

57. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and

from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced".

Objections by creditors and settlement of list of objecting creditors.

58. (*1*) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(*2*) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

Power to dispense with consent of creditor on security being given for his debt.

59. Where a creditor entered on the list of creditors whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount (that is to say),—

(*i*) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

(*ii*) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is

contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

Order confirming reduction.

60. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Registration of order and minute of reduction.

61. (*1*) The registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and on the filing with him of a certified copy of the order and of a minute (approved by the Court) showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(*2*) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(*3*) Notice of the registration shall be published in such manner as the Court may direct.

(*4*) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

Minute to form part of memorandum.

62. (*1*) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied in every copy of the memorandum issued after its registration.

(*2*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Liability of members in respect of reduced shares.

63. (*1*) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute :

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then—

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt, or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration ; and

(ii) if the company is wound up, the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

(*2*) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor.

64. If any officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any officer of the company abets any such concealment or misrepresentation as aforesaid, every such officer shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

Publication of reasons for reduction.

65. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

66. A company limited by guarantee and registered after the commencement of this Act may, if it has a share capital and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

Registration of Unlimited Company as Limited

Registration of unlimited company as limited.

67. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited or any company already registered as a limited company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations or contracts incurred or entered into by, to, with or on behalf of, the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part VIII of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section, the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company; but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

Power of unlimited company to provide for reserve share capital on re-registration.

68. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely :—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which its capital is

so increased shall be capable of being called up except in the event and for the purposes of the company being wound up:

(*b*) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up

Reserve Liability of Limited Company.

69. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid. **Reserve liability of limited company.**

Unlimited Liability of Directors.

70. (*1*) In a limited company the liability of the directors or of any director may, if so provided by the memorandum, be unlimited. **Limited company may have directors with unlimited liability.**

(*2*) In a limited company in which the liability of any director is unlimited, the directors of the company (if any) and the member who proposes a person for election or appointment to the office of director shall add to that proposal a statement that the liability of the person holding that office will be unlimited and the promoters and officers of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(*3*) If any director or proposer makes default in adding such a statement, or if any promoter or officer of the company makes default in giving such a notice, he shall be liable to a fine not exceeding one thousand rupees and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

71. (*1*) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director. **Special resolution of limited company making liability of directors unlimited.**

(*2*) Upon the confirmation of any such special resolution, the provisions thereof shall be as valid as if they had been originally contained in

the memorandum, and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made; and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

PART IV.

Management and Administration.

Office and Name.

Registered office of company.

72. (1) Every company shall have a registered office to which all communications and notices may be addressed.

(2) Notice in writing of the situation of the registered office, and of any change therein, shall be filed with the registrar who shall record the same.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which it so carries on business.

Publication of name by a limited company.

73. Every limited company—

(a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible and in English characters, and also, if the registered office be situate in a place beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place;

(b) shall have its name engraven in legible characters on its seal;

(c) shall have its name mentioned in legible English characters in all bill-heads and letter paper and in all notices, advertisements and other official publications of the company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

Penalties for non-publication of name.

74. (*1*) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding fifty rupees for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

(*2*) If any officer of a limited company, or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any bill-head, letter paper, notice, advertisement or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, hundi, promissory note, endorsement, cheque or order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding five hundred rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

Publication of authorised as well as subscribed and paid-up capital.

75. (*1*) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid up.

(2) Any company which makes default in complying with the requirements of this section and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding one thousand rupees.

Meetings and Proceedings.

Annual general meeting

76. (1) A general meeting of every company shall be held once at the least in every year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company and every officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding five hundred rupees.

(2) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

Statutory meeting of company.

77. (1) Every company limited by shares and registered after the commencement of this Act shall, within a period of six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

(2) The directors shall, at least ten days before the day on which the meeting is held, forward a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company or, where there are less than two directors, by the sole director and shall state—

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the total amount of cash received by the company in respect of all the shares allotted distinguished as aforesaid;

(*c*) an abstract of the receipts of the company whether from its share capital or from debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout and particulars concerning the balance remaining in hand and an account or estimate of the preliminary expenses of the company;

(*d*) the names, addresses and descriptions of the directors, auditors (if any), managers (if any) and secretary of the company;

(*e*) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(*4*) The statutory report shall, so far as it relates to the shares allotted by the company and to the cash received in respect of such shares and to the receipts and payments of the company on capital account, be certified as correct by the auditors (if any) of the company.

(*5*) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the registrar forthwith after the sending thereof to the members of the company.

(*6*) Every director of the company who knowingly and wilfully authorises or permits a default in complying with the provisions of sub-section (*2*) or sub-section (*5*) shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(*7*) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(*8*) The members of the company present at the meeting shall be at liberty to discuss any matters relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(*9*) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(*10*) If a petition is presented to the Court in manner provided by Part V for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(*11*) The provisions of this section as to the forwarding and filing of the statutory report shall not apply in the case of a private company.

Calling of extraordinary general meeting on requisition.

78. (*1*) Notwithstanding anything in the articles, the directors of a company which has a share capital shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to call an extraordinary general meeting of the company.

(*2*) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(*3*) If the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called, the requisitionists, or a majority of them in value, may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of the deposit of the requisition.

(*4*) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith call a further extraordinary general meeting for the purpose of considering the resolution and, if thought fit, of confirming it as a special resolution and, if the directors do not call the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves call the meeting.

(5) Any meeting called under this section by the requisitionists shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by directors.

79. In default of, and subject to, any regulations in the articles,— Provisions as to meetings and votes.

(i) a meeting of a company may be called by fourteen days' notice in writing, served on every member in manner in which notices are required to be served by Table A in the First Schedule;

(ii) five members may call a meeting;

(iii) any person elected by the members present at a meeting may be chairman thereof; and

(iv) every member shall have one vote.

80. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company. Representation of companies at meetings of other companies of which they are members.

81. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given. Extraordinary and special resolutions.

(2) A resolution shall be a special resolution when it has been—

(a) passed in manner required for the passing of an extraordinary resolution; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

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(*3*) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman on a show of hands that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(*4*) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(*5*) In a case where, if a poll is demanded, it may in accordance with the articles be taken in such manner as the chairman may direct; it may, if the chairman so directs, be taken at the meeting at which it is demanded

(*6*) When a poll is demanded in accordance with this section, in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(*7*) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles.

Registration and copies of special and extraordinary resolutions.

82. (*1*) A copy of every special and extraordinary resolution shall, within fifteen days from the confirmation of the special resolution or from the passing of the extraordinary resolution, as the case may be, be printed or typewritten and filed with the registrar who shall record the same.

(*2*) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.

(*3*) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request, on payment of one rupee or such less sum as the company may direct.

(4) If a company makes default in so filing with the registrar a copy of a special or extraordinary resolution, it shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(6) Every officer of a company who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

83. (1) Every company shall cause minutes of all proceedings of general meetings and of its directors to be entered in books kept for that purpose. Minutes of proceedings of general meetings and of its directors.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

[1][Directors.

83A. (1) Every company registered after the commencement of this Act shall have at least two directors. Directors obligatory.

(2) This section shall not apply to a private company.

83B. In default of and subject to any regulations in the articles of a company other than a private company— Appointment of directors.

(i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed;

1 This heading and sections 83A and 83B were inserted by s. 2 of the Indian Companies (Amendment) Act, 1914 (11 of 1914).

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(*ii*) the directors of the company shall be appointed by the members in general meeting; and

(*iii*) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director.]

Restrictions on appointment or advertisement of director.

84. (*1*) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company or in relation to any intended company or in any statement in lieu of prospectus filed by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has, by himself or by his agent authorised in writing—

(*i*) signed and filed with the registrar a consent in writing to act as such director; and

(*ii*) save in the case of a company limited by guarantee and not having a share capital, either signed the memorandum for a number of shares not less than his qualification (if any), or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares (if any).

(*2*) On the application for registration of the memorandum and articles of a company the applicant shall file with the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding five hundred rupees.

(*3*) This section shall not apply to a private company, nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification of director.

85. (*1*) Without prejudice to the restrictions imposed by section 84, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(*2*) The office of director of a company shall be vacated if the director does not, within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(*3*) If, after the expiration of the said period or shorter time, any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding fifty rupees for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

Validity of acts of directors.

86. The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification: Provided that nothing in this section shall be deemed to give validity to acts done by a director after the appointment of such director has been shown to be invalid.

List of directors be sent to registrar.

87. (*1*) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors, and file with the registrar a copy thereof, and from time to time file with the registrar notice of any change among its directors or managers.

(*2*) If default is made in complying with this section, the company shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Contracts.

Form of contracts.

88. (*1*) Contracts on behalf of a company may be made as follows (that is to say):—

(*i*) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

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(*ii*) any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(*2*) All contracts made according to this section shall be effectual in law and shall bind the company and its successors and all other parties thereto, their heirs, or legal representatives, as the case may be.

Bills of exchange and promissory notes.

89. A bill of exchange, hundi or promissory note shall be deemed to have been made, drawn, accepted or endorsed on behalf of a company if made, drawn, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority, express or implied

Execution of deeds abroad

90. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India, and every deed signed by such attorney, on behalf of the company, and under his seal, where sealing is required, shall bind the company, and have the same effect as if it were under its common seal.

Power for company to have official seal for use abroad.

91. (*1*) A company whose objects require or comprise the transaction of business beyond the limits of British India may, if authorised by its articles, have for use in any territory, district or place not situate in British India, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

(*2*) A company having such an official seal may, by writing under its common seal, authorise any person appointed for the purpose in any territory, district or place not situate in British India to affix the same to any deed or other document to which the company is party in that territory, district or place.

(*3*) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

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(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

[1][91A. (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement : Disclosure of interest by director.

Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub-section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

91B. (1) No director shall, as a director, vote on any contract or arrangement in which he is either directly or indirectly concerned or interested; and if he does so vote, his vote shall not be counted : Prohibition of voting by interested director.

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

[2][(3) This section shall not apply to a private company.]

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[1] Sections 91A to 91D were inserted by s. 3 of the Indian Companies (Amendment) Act, 1914 (11 of 1914).

[2] This sub-section was added by s. 2 of the Indian Companies (Amendment) Act, 1920 (42 of 1920).

Disclosure to members in case of contract appointing a manager

91C. (*1*) Where a company enters into a contract for the appointment of a manager of the company in which contract any director of the company is directly or indirectly concerned or interested, or varies any such existing contract, the company shall send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating the nature of the interest of the director in such contract, or in such variation, to every member, and the contract shall be open to the inspection of any member at the registered office of the company.

(*2*) If a company makes default in complying with the requirements of sub-section (*1*), it shall be liable to a fine not exceeding one thousand rupees; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Contracts by agents of company in which company is undisclosed principal.

91D. (*1*) Every manager or other agent of a company other than a private company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made.

(*2*) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company, and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.

(*3*) If any such manager or other agent makes default in complying with the requirements of this section—

(*a*) the contract shall, at the option of the company, be void as against the company; and

(*b*) such manager or other agent shall be liable to a fine not exceeding two hundred rupees.]

Prospectus.

Filing of prospectus.

92. (*1*) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty rupees for every day from the date of the issue of the prospectus until a copy thereof is so filed

Specific requirements as to particulars of prospectus.

93. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

(a) the contents of the memorandum, with the names, descriptions and addresses of the signatories and the number of shares subscribed for by them respectively: and the number of founders or management or deferred shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company; and

(b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and

(c) the names, descriptions and addresses of the directors or proposed directors and of the managers or proposed managers (if any); and

(d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted; and

(*e*) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or agreed to be issued; and

(*f*) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor: Provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors; and

(*g*) the amount (if any) paid or payable as purchase-money in cash, shares or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and

(*h*) the amount (if any) paid within the two preceding years or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission: Provided that it shall not be necessary to state the commission payable to sub-under-writers; and

(*i*) the amount or estimated amount of preliminary expenses; and

(*k*) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment; and

(*l*) the dates of, and parties to, every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary

course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus; and

(*m*) the names and addresses of the auditors (if any) of the company; and

(*n*) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; and

(*o*) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.

(*2*) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum, or the signatories thereto, and the number of shares subscribed for by them.

(*3*) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(*4*) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

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(5) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

Meaning of "vendor" in section 93.

94. For the purposes of section 93 every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

(*a*) the purchase-money is not fully paid at the date of issue of the prospectus; or

(*b*) the purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(*c*) the contract depends for its validity or fulfilment on the result of that issue.

Application of section 93 to the case of property taken on lease.

95. Where any of the property to be acquired by the company is to be taken on lease, section 93 shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

Invalidity of certain conditions as to waiver or notice.

96. Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirements of section 93, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

Saving in certain cases of non-compliance with section 93.

97. (1) In the event of non-compliance with any of the requirements of section 93, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

(*a*) as regards any matter not disclosed, he was not cognisant thereof; or

(*b*) the non-compliance arose from an honest mistake of fact on his part:

Provided that, in the event of non-compliance with the requirements contained in clause (*n*) of sub-section (*1*) of section 93, no such director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

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Obligations of companies where no prospectus is issued

98. (*1*) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the Second Schedule

(*2*) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act or, in so far as it relates to the allotment of shares to a company limited by guarantee and not having a share capital.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

99. A company shall not, at any time, vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the company in general meeting.

Liability for statements in prospectus.

100. (*1*) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for all loss or damage they may have sustained by reason of any misleading or untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

(*a*) with respect to every misleading or untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement fairly represented the facts or was true;

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(b) with respect to every misleading or untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation : Provided that the director, person named as director, promoter or person who authorised the issue of the prospectus shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; and

(c) with respect to every misleading or untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document :

or unless it is proved—

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent ; or

(ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent ; or

(iii) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any misleading or untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where a company existing at the commencement of this Act has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein unless he has authorised the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any suit or legal proceedings brought against him in respect thereof.

(4) Every person who, by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section—

(*a*) the expression "promoter" means a promoter who was a party to the preparation of the prospectus, or the portion thereof containing the misleading or untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

(*b*) the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Allotment.

Restriction as to allotment.

101. (*1*) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely:—

(*a*) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or

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(*b*) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription,

has been subscribed, and the sum payable on application for the amount so fixed and named or for the whole amount offered for subscription, has been paid to and received in cash by the company.

(*2*) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(*3*) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(*4*) If the conditions aforesaid have not been complied with on the expiration of one hundred and twenty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of seven per cent. per annum from the expiration of the one hundred and thirtieth day: Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(*5*) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(*6*) This section, except sub-section (*3*) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(*7*) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say)—

(*a*) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment; or

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(*b*) if no amount is so fixed and named, the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash;

has been subscribed and an amount not less than five per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

(*8*) Sub-section (*7*) shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act.

Effect of irregular allotment.

102. (*1*) An allotment made by a company to an applicant in contravention of the provisions of section 101 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(*2*) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of section 101 with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment.

Restrictions on commencement of business.

103. (*1*) A company shall not commence any business or exercise any borrowing powers unless—

(*a*) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(*b*) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription or, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and

(*c*) there has been filed with the registrar a duly verified declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with: and

(*d*) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the registrar a statement in lieu of prospectus.

(*2*) The registrar shall, on the filing of a duly verified declaration, in accordance with the provisions of this section certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled:

Provided that, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(*3*) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(*4*) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(*5*) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred rupees for every day during which the contravention continues.

(*6*) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act which does not issue a prospectus inviting the public to subscribe for its shares or, in so far as its provisions relate to shares, to a company limited by guarantee and not having a share capital.

104. (*1*) Whenever a company having a share capital makes any allotment of its shares, the company shall, within one month thereafter,— **Return as to allotments.**

(*a*) file with the registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and

(*b*) in the case of shares allotted as fully or partly paid up otherwise than in cash, produce for the inspection and examination of the registrar a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and file with the registrar copies verified in the prescribed manner of all such contracts and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(*2*) Where such a contract as above mentioned is not reduced to writing, the company shall, within one month after the allotment, file with the registrar the prescribed particulars of the contract stamped with the same stamp-duty as would have been payable if the contract had been reduced to writing, and these particulars shall be deemed to **II of 1899.** be an instrument within the meaning of the Indian Stamp Act, 1899, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 31 of that Act.

(*3*) If default is made in complying with the requirements of this section, every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues:

Provided that, in case of default in filing with the registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission

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to file the document was accidental or due to inadvertence or that on other grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such a period as the Court may think proper.

Commissions and Discounts.

Power to pay certain commissions and prohibition of payment of all other commissions, discounts, etc.

105. (*1*) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorised by the articles and the commission paid or agreed to be paid does not exceed the amount or rate so authorised and if the amount or rate per cent. of the commission paid or agreed to be paid is—

(*a*) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(*b*) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the registrar and, where a circular or notice, not being a prospectus inviting subscription for the shares is issued, also disclosed in that circular or notice.

(*2*) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase-money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase-money or contract price, or otherwise.

(*3*) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be

deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

106. Where a company has paid any sums by way of commission in respect of any shares or debentures or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off. **Statement in balance sheet as to commissions and discounts.**

Payment of Interest out of Capital.

107. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant : **Power of company to pay interest out of capital in certain cases.**

Provided that—

(*1*) no such payment shall be made unless the same is authorised by the articles or by special resolution;

(*2*) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Local Government, which sanction shall be conclusive evidence for the purposes of this section that the shares of the company, in respect of which such sanction is given, have been issued for a purpose specified in this section;

(*3*) before sanctioning any such payment, the Local Government may, at the expense of the company, appoint a person to inquire and report to such Local Government as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry;

(*4*) the payment shall be made only for such period as may be determined by the Local Government; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;

(*5*) the rate of interest shall in no case exceed four per cent. per annum or such lower rate as the Governor General in Council may, by notification in the Gazette of India, prescribe;

(*6*) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;

(*7*) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate;

(*8*) nothing in this section shall affect any company to which the Indian Railway Companies Act, 1895, or the Indian Tramways Act, 1902, applies. **X of 1895. IV of 1902.**

Certificates of Shares, etc.

Limitation of time for issue of certificates.

108. (*1*) Every company shall, within three months after the allotment of any of its shares, debentures or debenture stock, and within three months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

(*2*) If default is made in complying with the requirements of this section, the company, and every officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Information as to Mortgages, Charges, etc.

Certain mortgages and charges to be void if not registered.

109. (1) Every mortgage or charge created after the commencement of this Act by a company and being either—

(*a*) a mortgage or charge for the purpose of securing any issue of debentures; or

(b) a mortgage or charge on uncalled share capital of the company; or

(c) a mortgage or charge on any immoveable property wherever situate, or any interest therein; or

(d) a mortgage or charge on any book debts of the company; or

(e) a floating charge on the undertaking or property of the company;

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, or a copy thereof verified in the prescribed manner are filed with the registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section, the money secured thereby shall immediately become payable:

Provided that—

(i) in the case of a mortgage or charge created out of British India, comprising solely property situate outside British India, twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in British India shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be filed with the registrar; and

(ii) where the mortgage or charge is created in British India but comprises property outside British India, the instrument creating or purporting to create the mortgage or charge or a copy thereof verified in the prescribed manner may be filed for registration notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate; and

(*iii*) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts; and

(*iv*) the holding of debentures entitling the holder to a charge on immoveable property shall not be deemed to be an interest in immoveable property.

Particulars in case of series of debentures entitling holders *pari passu*.

110. Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient for the purposes of section 109 if there are filed with the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars:—

(*a*) the total amount secured by the whole series; and

(*b*) the dates of the resolution authorising the issue of the series and the date of the covering deed (if any) by which the security is created or defined; and

(*c*) a general description of the property charged; and

(*d*) the names of the trustees (if any) for the debenture-holders;

together with the deed or a copy thereof verified in the prescribed manner containing the charge, or if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter those particulars in the register:

Provided that, where more than one issue is made of debentures in the series, there shall be filed with the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

Particulars in case of commission, etc., on debentures.

111. Where any commission, allowance or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be filed for

registration under sections 109 and 110 shall include particulars as to the amount or rate per cent. of the commission, discount or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued :

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

Register of mortgages and charges.

112. (*1*) The registrar shall keep, with respect to each company, a register in the prescribed form of all mortgages and charges created by the company after the commencement of this Act and requiring registration under section 109, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge

(*2*) After making the entry required by sub-section (*1*), the registrar shall return the instrument (if any) or the verified copy thereof, as the case may be, filed in accordance with the provisions of section 109 or section 110 to the person filing the same.

(*3*) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one rupee for each inspection.

Index to register of mortgages and charges.

113. The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act.

Certificate of registration.

114. The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of section 109, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of sections 109 to 112 as to registration have been complied with.

Endorsement of certificate of registration on debenture or

115. The company shall cause a copy of every certificate of registration, given under section 114, to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered :

certificate of debenture stock. Provided that nothing in this section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

Duty of company and right of interested party as regards registration. **116.** (*1*) It shall be the duty of the company to file with the registrar for registration the prescribed particulars of every mortgage or charge created by the company and of the issues of debentures of a series requiring registration under section 109, but registration of any such mortgage or charge may be effected on the application of any person interested therein.

(*2*) Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

Copy of instrument creating mortgage or charge to be kept at registered office. **117.** Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under section 109 to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Registration of appointment of receiver. **118.** (*1*) If any person obtains an order for the appointment of a receiver of the property of a company, or appoints such a receiver under any powers contained in any instrument, he shall, within fifteen days from the date of the order or of the appointment under the powers contained in the instrument, file notice of the fact with the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(*2*) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Filing of accounts of receivers. **119.** (*1*) Every receiver of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall once in every half-year while he remains in possession, and also on ceasing to act as receiver, file with the registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also, on ceasing to

act as receiver, file with the registrar notice to that effect, and the registrar shall enter the notice in the register of mortgages and charges.

(2) Every receiver who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five hundred rupees.

Rectification of register of mortgages.

120. The Court, on being satisfied that the omission to register a mortgage or charge within the time required by section 109, or that the omission or mis-statement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or share-holders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the Court just and expedient, order that the time for registration be extended, or, as the case may be, that the omission or mis-statement be rectified, and may make such order as to the costs of the application as it thinks fit.

Entry of satisfaction.

121. The registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof.

Penalties.

122. (1) If any company makes default in filing with the registrar for registration the particulars—

(a) of any mortgage or charge created by the company; or

(b) of the issues of debentures of a series,

requiring registration with the registrar under the foregoing provisions of this Act, then, unless the registration has been effected on the application of some other person, the company, and every officer of the company or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding five hundred rupees for every day during which the default continues.

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Act as to the registration with the registrar of any mortgage or charge created by the company, the company, and every officer of the company, who knowingly and wilfully

authorises or permits the default shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees

(*3*) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act without a copy of the certificate of registration being endorsed upon it, he shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

Company's register of mortgages.

123. (*1*) Every ~~limited~~ company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

(*2*) If any director, manager or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding five hundred rupees.

Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages.

124. (*1*) The copies kept at the registered office of the company in pursuance of section 117 of instruments creating any mortgage or charge requiring registration under this Act with the registrar, and the register of mortgages kept in pursuance of section 123, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one rupee for each inspection, as the company may prescribe.

(*2*) If inspection of the said copies or register is refused, the company shall be liable to a fine not exceeding fifty rupees and a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and in addition to the above penalty, the Court may by order compel an immediate inspection of the copies or register.

Right to inspect the register of debenture-holders and

125. (*1*) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may

be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of six annas for every one hundred words or fractional part thereof required to be copied. to have copies of trust deed.

(2) A copy of any trust-deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust-deed of the sum of one rupee or such less sum as may be prescribed by the company, or, where the trust-deed has not been printed, on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and the Court may by order compel an immediate inspection of the register.

Debentures and Floating Charges.

126. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period however long. **Perpetual debentures.**

127. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power **Power to re-issue redeemed debentures in certain cases.**

the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such re issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue they have, either before or after the commencement of this Act, been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has, either before or after the commencement of this Act, deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Act, shall be treated as the issue of a new debenture for the purposes of stamp-duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued :

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp-duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp-duty and penalty.

(5) Nothing in this section shall prejudice—

(*a*) the operation of any decree or order of a Court of competent jurisdiction pronounced or made before the twenty-fifth day of February, 1910, as between the parties to the proceedings

in which the decree or order was made, and any appeal from any such decree or order shall be decided as if this Act had not been passed; or

(*b*) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same.

128. A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

Specific performance of contract to subscribe for debentures.

129. (*1*) Where either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

(*2*) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(*3*) Any payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

Statements, Books and Accounts.

130. Every company shall keep proper books of account in which shall be entered full, true and complete accounts of the affairs and transactions of the company.

Company to keep proper books of account.

131. (*1*) Every company shall, once at least in every year and at intervals of not more than fifteen months, cause the accounts of the company to be balanced and a balance-sheet to be prepared.

Annual balance-sheet.

(*2*) The balance-sheet shall be audited by the auditor of the company as hereinafter provided, and the auditor's report shall be attached thereto, or there shall be inserted at the foot thereof a reference to the

report, and the report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

(*3*) Every company ~~other than a private company~~ shall send a copy of such balance-sheet so audited to the registered address of every member of the company at least seven days before the meeting at which it is to be laid before the members of the company, and shall deposit a copy at the registered office of the company for the inspection of the members of the company during a period of at least seven days before that meeting.

(*4*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one thousand rupees, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Contents of balance-sheet.

132. (*1*) The balance-sheet shall contain a summary of the property and assets and of the capital and liabilities of the company giving such particulars as will disclose the general nature of those liabilities and assets and how the value of the fixed assets has been arrived at.

(*2*) The balance-sheet shall be in the form marked F in the Third Schedule or as near thereto as circumstances admit.

Authentication of balance-sheet.

133. (*1*) Save as provided by sub-section (*2*) the balance-sheet shall—

(i) in the case of a banking company, be signed by the manager (if any) and, where there are more than three directors of the company, by at least three of those directors and, where there are not more than three directors, by all the directors;

(ii) in the case of any other company, be signed by two directors or, when there are less than two directors, by the sole director and by the manager (if any) of the company.

(*2*) When the total number of directors of the company for the time being in British India is less than the number of directors whose signatures are required by sub-section (*1*), then the balance-sheet shall be signed by all the directors for the time being in British India, or, if there is only one director for the time being in British India, by such director, but in such a case there shall be subjoined to the balance-sheet a statement signed by such directors or director explaining the reason for non-compliance with the provisions of sub-section (*1*).

(*3*) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is knowingly a party to the default shall be punishable with fine which may extend to five hundred rupees.

134. (*1*) After the balance-sheet has been laid before the company at the general meeting a copy thereof signed by the manager or secretary of the company shall be filed with the registrar at the same time as the copy of the annual list of members and summary prepared in accordance with the requirements of section 32. **Copy of balance-sheet to be forwarded to the registrar.**

(*2*) If the general meeting before which a balance-sheet is laid does not adopt the balance-sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance-sheet and to the copy thereof required to be filed with the registrar.

(*3*) This section shall not apply to a private company.

(*4*) If a company makes default in complying with the requirements of this section, the company and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty as is provided by section 32 for a default in complying with the provisions of that section.

135. Save as otherwise provided in this Act, any member of a company shall be entitled to be furnished with copies of the balance-sheet and the auditor's report at a charge not exceeding six annas for every hundred words or fractional part thereof. **Right of member of company to copies of the balance-sheet and the auditor's report.**

Statement to be published by Banking and certain other Companies.

136. (*1*) Every company being a limited banking company or an insurance company or a deposit, provident or benefit society shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked G in the Third Schedule, or as near thereto as circumstances will admit. **Certain companies to publish statement in schedule.**

(*2*) A copy of the statement shall be displayed and, until the display of the next following statement, kept displayed in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(Part IV.—Management and Administration.)

(3) Every member and every creditor of the company shall be entitled to a copy of the statement on payment of a sum not exceeding eight annas

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(5) This section shall not apply to a life assurance company or provident insurance society to which the provisions of the Indian Life Assurance Companies Act, 1912, or of the Provident Insurance Societies Act, 1912, as the case may be, as to the annual statements to be made by such company or society, apply with or without modifications, if the company or society complies with those provisions. **VI of 1912. V of 1912.**

Investigation by the Registrar.

Power of registrar to call for information or explanation.

137. (1) Where the registrar, on perusal of any document which a company is required to submit to him under the provisions of this Act, is of opinion that any information or explanation is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may, by a written order, call on the company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

(2) On the receipt of an order under sub-section (1), it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information or explanation, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

(4) On receipt of such information or explanation the registrar may annex the same to the original document submitted to him; and any additional document so annexed by the registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

(*Part IV.—Management and Administration.*)

(*5*) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the registrar shall report in writing the circumstances of the case to the Local Government.

Inspection and Audit.

Investigation of affairs of company by inspectors.

138. The Local Government may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the Local Government may direct—

(i) in the case of a banking company having a share capital, on the application of members holding not less than one-fifth of the shares issued;

(ii) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(iii) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members;

(iv) in the case of any company, on a report by the registrar under section 137, sub-section (*5*).

Application for inspection to be supported by evidence.

139. An application by members of a company under section 138 shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation; and the Local Government may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

Inspection of books and examination of officers.

140. (*1*) It shall be the duty of all persons who are or have been officers of the company to produce to the inspectors all books and documents in their custody or power relating to the company.

(*2*) An inspector may examine on oath any such person in relation to its business, and may administer an oath accordingly.

(*Part IV.—Management and Administration.*)

(*3*) If any person refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

Results of examination how dealt with.

141. (*1*) On the conclusion of the investigation, the inspectors shall report their opinion to the Local Government and a copy of the report shall be forwarded by the Local Government to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

(*2*) The report shall be written or printed, as the Local Government directs.

(*3*) All expenses of, and incidental to, the investigation shall be defrayed by the applicants unless the Local Government directs the same to be paid by the company, which the Local Government is hereby authorised to do.

Power of company to appoint inspectors.

142. (*1*) A company may by a special resolution appoint inspectors to investigate its affairs.

(*2*) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Local Government, except that, instead of reporting to the Local Government, they shall report in such manner and to such persons as the company in general meeting may direct.

(*3*) All persons who are or have been officers of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Local Government.

Report of inspectors to be evidence.

143. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Qualifications and appointment of auditors.

144. (*1*) No person shall be appointed or act as an auditor of any company other than a private company unless he holds a certificate from the Local Government entitling him to act as an auditor of companies :

(*Part IV.—Management and Administration.*)

Provided that the Governor General in Council may, by [1]notification in the Gazette of India, declare that the members of any institution or association specified in such notification shall be entitled to be appointed and to act as auditors of companies throughout British India.

(*2*) The Local Government shall, by notification in the local official Gazette make rules[2] providing for the grant of certificates entitling the holders thereof to act as auditors of companies, and may by such rules provide the conditions and restrictions on and subject to which such certificate shall be granted. The holder of such a certificate shall be entitled to act as an auditor of companies throughout British India unless such certificate restricts or limits the exercise of the right

(*3*) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(*4*) If an appointment of an auditor is not made at an annual general meeting, the Local Government may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(*5*) The following persons: that is to say,

(i) a director or officer of the company; and

(ii) a partner of such director or officer; and

(iii) in the case of a company other than a private company, any person in the employment of such director or officer,

shall not be appointed auditors of the company.

(*6*) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member of the company to the company not less than fourteen days before such annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give

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[1] For notification declaring that the members of certain institutions and associations shall be entitled to act as auditors, *see* General Statutory Rules and Orders, Vol. IV, p. 435.

[2] For such rules for Madras, *see* Fort St. George Gazette, 1920, Pt. I, p. 1005; for Bombay, *see* Bombay Local Rules and Orders, 1924, Vol. II p. 804.

notice thereof to its members either by advertisement or in any other mode allowed by the articles not less than seven days before the annual general meeting:

Provided that, if after notice of the intention to nominate an auditor has been given to the company, an annual general meeting is called for a date fourteen days or less after the notice has been given, the requirements of this section as to time in respect of such a notice shall be deemed to have been satisfied, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(*7*) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the members of the company in general meeting, in which case such members at that meeting may appoint auditors.

(*8*) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

(*9*) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

Powers and duties of auditors.

145. (*1*) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(*2*) The auditors shall make a report to the members of the company on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state :—

(*a*) whether or not they have obtained all the information and explanations they have required; and

(*Part IV.—Management and Administration.*)

(*b*) whether, in their opinion, the balance-sheet referred to in the report is drawn up in conformity with the law; and

(*c*) whether such balance-sheet exhibits a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(*3*) In the case of a banking company, if the company has branch banks beyond the limits of India, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as have been transmitted to the head office of the company in British India.

146. (*1*) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

Rights of preference shareholders, etc., as to receipts and inspection of reports, etc.

(*2*) This section shall not apply to a private company, nor to a company registered before the commencement of this Act.

Carrying on business with less than the legal minimum of members.

147. If at any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same without joinder in the suit of any other member.

Liability for carrying on business with fewer than seven or, in the case of a private company, two members.

Service and Authentication of Documents.

148. A document may be served on a company by leaving it at, or sending it by post to, the registered office of the company.

Service of documents on company.

149. A document may be served on the registrar by sending it to him by post, or delivering it to him, or by leaving it for him at his office.

Service of documents on registrar.

(Part IV.—Management and Administration.)

Authentication of documents.

150. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

Tables, Forms and Rules as to prescribed matters.

Application and alteration of tables and forms, and power to make rules as to prescribed matters.

151. *(1)* The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

(2) The Governor General in Council may alter any of the tables and forms in the First Schedule, so that he does not increase the amount of fees payable to the registrar in the said Schedule mentioned, and may alter or add to the forms in the Third Schedule

(3) Any such table or form, when altered, shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act, but no alteration made by the Governor General in Council in Table A in the First Schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that table.

(4) In addition to the powers hereinbefore conferred by this section, the Governor General in Council may make [1]rules providing for all or any matters which by this Act are to be prescribed by his authority.

(5) Every such rule shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

Arbitration and Compromise.

Power for companies to refer matters to arbitration.

152. *(1)* A company may by written agreement refer to arbitration, in accordance with the Indian Arbitration Act, 1899, an existing or future difference between itself and any other company or person. **IX of 1899.**

(2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

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[1] For rules under the section, *see* General Statutory Rules and Orders, Vol. IV, p. 435.

IX of 1899. (3) The provisions of the Indian Arbitration Act, 1899, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations between companies and persons in pursuance of this Act.

153. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs. **Power to compromise with creditors and members.**

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on all the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) In this section the expression "company" means any company liable to be wound up under this Act.

Conversion of private company into public company.

154. (1) A private company may, subject to anything contained in its memorandum or articles, by a special resolution and by filing with the registrar a copy of such resolution and also such a statement in lieu of prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures, together with such a duly verified declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company. **Conversion of private into public company.**

(2) Upon the filing of the documents mentioned in sub-section (1), the registrar shall record the change in his books relating to the company.

PART V.

WINDING UP

Preliminary.

Mode of winding up.

155. (*1*) The winding up of a company may be either—

(i) by the Court; or

(ii) voluntary; or

(iii) subject to the supervision of the Court.

(*2*) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of these modes.

Contributories.

Liability as contributories of present and past members.

156. (*1*) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say) :—

(i) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;

(ii) a past member shall not be liable to contribute in respect of any debt, or liability of the company contracted after he ceased to be a member;

(iii) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(iv) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect to which he is liable as a present or past member;

(v) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up:

(vi) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(vii) a sum due to any member of a company in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member of the company; but any such sum may be taken into account for the purpose of the final adjustments of the rights of the contributories among themselves.

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

Liability of directors whose liability is unlimited.

157. In the winding up of a limited company any director whether past or present, whose liability is, in pursuance of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

Provided that—

(i) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(ii) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(iii) subject to the articles a director shall not be liable to make such further contribution unless the Court deems it necessary to

require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

Meaning of "contributory".

158. The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of liability of contributory.

159. (1) The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

(2) No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes sitting outside the Presidency-towns.

Contributories in case of death of member.

160. (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives and his heirs shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) If the legal representatives or heirs make default in paying any money ordered to be paid by them, proceedings may be taken for administering the property of the deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereout of the money due.

Contributories in case of insolvency of member.

161. If a contributory is adjudged insolvent either before or after he has been placed on the list of contributories, then—

(1) his assignees shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the insolvent in respect of his liability to contribute to the assets of the company; and

(2) there may be proved against the estate of the insolvent the estimated value of his liability to future calls as well as calls already made.

(Part V.—Winding up.)

Winding up by Court.

Circumstances in which company may be wound up by Court.

162. A company may be wound up by the Court—

(i) if the company has by special resolution resolved that the company be wound up by the Court:

(ii) if default is made in filing the statutory report or in holding the statutory meeting:

(iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year:

(iv) if the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven:

(v) if the company is unable to pay its debts:

(vi) if the Court is of opinion that it is just and equitable that the company should be wound up.

Company when deemed unable to pay its debts.

163. A company shall be deemed to be unable to pay its debts—

(i) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, ~~by leaving the same~~ at its registered office, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(ii) if execution or other process issued on a decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

Winding up may be referred to District Court.

164. Where the High Court makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District

Court shall, for the purpose of winding up the company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding up, all the jurisdiction and powers of the High Court

Transfer of winding up from one District Court to another.

165. If during the progress of a winding up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court having jurisdiction to wind up companies, the High Court may transfer the same to such other Court, and thereupon the winding up shall proceed in such other District Court.

Provisions as to applications for winding up.

166. An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately:

Provided that—

(*a*) a contributory shall not be entitled to present a petition for winding up a company unless—

(i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory or some of them either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder;

(*b*) a petition for winding up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held;

(*c*) the Court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such

security for costs has been given as the Court thinks reasonable and until a *primâ facie* case for winding up has been established to the satisfaction of the Court.

Effect of winding up order.

167. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Commencement of winding up by Court.

168. A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Court may grant injunction.

169. The Court may, at any time after the presentation of the petition for winding up a company under this Act, and before making an order for winding up the company, upon the application of the company or of any creditor or contributory of the company, restrain further proceedings in any suit or proceeding against the company, upon such terms as the Court thinks fit.

Powers of Court on hearing petition.

170. (*1*) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order or any other order that it deems just, but the Court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(*2*) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

Suits stayed on winding up order.

171. When a winding up order has been made, no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

Copy of winding up order to be filed with registrar.

172. (*1*) On the making of a winding up order, it shall be the duty of the company forthwith to file with the registrar a copy of the order, and the petitioner in the winding up proceedings may so file a copy.

(*2*) On the filing of a copy of a winding up order, the registrar shall make a minute thereof in his books relating to the company, and shall notify in the local official Gazette that such an order has been made.

(3) Such order shall be deemed to be notice of discharge to the servants of the company, except when the business of the company is continued.

Power of Court to stay winding up.

173. The Court may at any time after an order for winding up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

Court may have regard to wishes of creditors or contributories.

174. The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Official Liquidators.

Appointment of official liquidator.

175. (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a ~~person or persons~~, to be called an official liquidator or official liquidators.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up.

(3) If more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act by this Act required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons.

(4) The Court may determine whether any, and what, security is to be given by any official liquidator on his appointment.

(5) The acts of an official liquidator shall be valid notwithstanding any defect that may afterwards be discovered in his appointment: Provided that nothing in this sub-section shall be deemed to give validity to acts done by an official liquidator after his appointment has been shown to be invalid.

(6) A receiver shall not be appointed of assets in the hands of an official liquidator.

(*Part V.—Winding up.*)

176. (*1*) Any official liquidator may resign or be removed by the Court on due cause shown. Resignations, removals, filling up vacancies and compensation.

(*2*) Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court.

(*3*) There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remunerations shall be distributed amongst them in such proportions as the Court directs.

177. The official liquidator shall be described by the style of the official liquidator of the particular company in respect of which he is appointed, and not by his individual name. Official liquidator.

178. (*1*) The official liquidator shall take into his custody, or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled. Custody of company's property.

(*2*) If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the company shall be deemed to be in the custody of the Court.

179. The official liquidator shall have power, with the sanction of the Court, to do the following things:— Powers of official liquidator.

(*a*) to institute or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company;

(*b*) to carry on the business of the company so far as may be necessary for the beneficial winding up of the same;

(*c*) to sell the immoveable and moveable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(*d*) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal;

(*e*) to prove, frank and claim in the insolvency of any contributory, for any balance against his estate, and to receive dividends in

(Part V.—Winding up.)

the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors;

(*f*) to draw, accept, make and indorse any bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill, hundi, or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business;

(*g*) to raise on the security of the assets of the company any money requisite;

(*h*) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself: Provided that nothing herein empowered shall be deemed to affect the rights, duties and privileges of any Administrator General;

(*i*) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

Discretion of official liquidator.

180. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Provision for legal assistance to official liquidator.

181. The official liquidator may, with the sanction of the Court, appoint an advocate, attorney or pleader entitled to appear before the Court to assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Official books to be kept by

182. The official liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he

shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

liquidator in winding up.

Exercise and control of liquidator's powers.

183. (*1*) Subject to the provisions of this Act the official liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting.

(*2*) The official liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(*3*) The official liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising in the winding up.

(*4*) Subject to the provisions of this Act, the official liquidator shall use his own discretion in the administration of the assets of the company and in the distribution thereof among the creditors.

(*5*) If any person is aggrieved by any act or decision of the official liquidator, that person may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just in the circumstances.

Ordinary Powers of Court.

Settlement of list of contributories and application of assets.

184. (*1*) As soon as may be after making a winding up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

(*2*) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

(*Part V.—Winding up.*)

Power to require delivery of property.

185. The Court may, at any time after making a winding up order, require any contributory for the time being settled on the list of contributories and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, surrender or transfer forthwith, or within such time as the Court directs, to the official liquidator any money, property or documents in his hands to which the company is *primâ facie* entitled.

Power to order payment of debts by contributory.

186. (*1*) The Court may, at any time after making a winding up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(*2*) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director whose liability is unlimited or to his estate the like allowance:

Provided that, in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of Court to make calls.

187. (*1*) The Court may, at any time after making a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

(*2*) In making the call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call

(*Part V.—Winding up*)

188. The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof, respectively, to the account of the official liquidator instead of to the official liquidator, and any such order may be enforced in the same manner as if it had directed payment to the official liquidator. Power to order payment into bank.

189. All moneys, bills, hundis, notes and other securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof, respectively, in the event of a company being wound up by the Court, shall be subject in all respects to the orders of the Court. Regulation of account with Court.

190. (*1*) An order made by the Court on a contributory shall (subject to any right of appeal) be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due. Order on contributory conclusive evidence.

(*2*) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings whatsoever.

191. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved. Power to exclude creditors not proving in time.

192. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto. Adjustment of rights of contributories.

193. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the Court thinks just. Power to order costs.

194. (*1*) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly. Dissolution of company.

(*2*) The order shall be reported within fifteen days of the making thereof by the official liquidator to the registrar, who shall make in his books a minute of the dissolution of the company.

(*3*) If the official liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which he is in default.

Extraordinary Powers of Court.

Power to summon persons suspected of having property of company.

195. (*1*) The Court may, after it has made a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company, or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs or property of the company.

(*2*) The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(*3*) The Court may require him to produce any documents in his custody or power relating to the company; but, where he claims any lien on documents produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(*4*) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

Power to order public examination of promoters, directors, etc.

196. (*1*) When an order has been made for winding up a company by the Court, and the official liquidator has applied to the Court stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the application, direct that any person who has taken any part in the promotion or formation of the company, or has been a director, manager or other officer of the company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director, manager or other officer thereof.

(2) The official liquidator shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ such legal assistance as may be sanctioned by the Court.

(3) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the Court.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section may at his own cost employ any person entitled to appear before the Court, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him : Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him in civil proceedings, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to any rules in this behalf, be held before any District Judge or before any officer of the High Court, being an official referee, master, registrar or deputy registrar, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held.

Power to arrest absconding contributory.

197. The Court, at any time either before or after making a winding up order on proof of probable cause for believing that a contributory is about to quit British India or otherwise to abscond, or to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested and his books and papers and moveable property to be seized, and him and them to be safely kept until such time as the Court may order.

(*Part V.—Winding up.*)

Saving of other proceedings.

198. Any powers by this Act conferred on the Court shall be in addition to, and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Enforcement of and Appeal from Orders.

Power to enforce orders

199. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

200. Any order made by a Court for or in the course of the winding up of a company shall be enforced in any place in British India other than that in which such Court is situate, by the Court that would have had jurisdiction in respect of such company if the registered office of the company had been situate at such other place, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

201. Where any order made by one Court is to be enforced by another Court, a certified copy of the order so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order having been made; and thereupon the last-mentioned Court shall take the requisite steps in the matter for enforcing the order, in the same manner as if it were the order of the Court enforcing the same.

Appeals from orders.

202. Re-hearings of and appeals from, any order or decision made or given in the matter of the winding up of a company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction.

Voluntary winding up.

Circumstances in which company may be wound up voluntarily.

203. A company may be wound up voluntarily—

(1) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;

(2) if the company resolves by special resolution that the company be wound up voluntarily;

(3) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

Commencement of voluntary winding up.

204. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution ~~authorising~~ the winding up.

Effect of voluntary winding up on status of company.

205. When a company is wound up voluntarily, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntarily.

206. (*1*) Notice of any special resolution or extraordinary resolution for winding up a company voluntarily shall be given by the company within ten days of the passing of the same by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the district where the registered office of the company is situate.

(*2*) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to a like penalty.

Consequences of voluntarily winding up.

207. The following consequences shall ensue on the voluntary winding up of a company:—

(i) the assets of the company shall be applied in satisfaction of its liabilities *pari passu* and, subject thereto, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company;

(ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them;

(iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof;

(iv) the liquidator may, without the sanction of the Court, exercise all powers by this Act given to the official liquidator in a winding up by the Court;

(v) the liquidator may exercise the powers of the Court under this Act of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves;

(vi) the list of contributories shall be *primâ facie* evidence of the liability of the persons named therein to be contributories;

(vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined by the company at the time of their appointment, or in default of such determination by any number not less than two;

(viii) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator; and

(ix) the Court may, on cause shown, remove a liquidator, and appoint another liquidator.

Notice by liquidator of his appointment.

208. (*1*) The liquidator in a voluntary winding up shall, within twenty-one days after his appointment, file with the registrar a notice of his appointment in the form prescribed.

(*2*) If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Rights of creditors in a voluntary winding up.

209. (*1*) Every liquidator appointed by a company in a voluntary winding up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than twenty-one days nor more than one month after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the local official Gazette and once at least in some newspaper (if any) circulating in the district where the registered office or principal place of business of the company was situate.

(2) At the meeting to be held in pursuance of the foregoing provisions of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of, or jointly with, the liquidator appointed by the company, and, if the creditors so resolve, an application may be made accordingly to the Court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting

Provided that the Court may, by order at any time, extend the time for making an application under this sub-section for such period as the Court thinks proper

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just

(4) The Court shall make such order as to the costs of the application as it may think fit, and, if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant

Power to fill vacancy in office of liquidator.

210. (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company in a voluntary winding up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy

(2) For that purpose a general meeting may be called by any contributory or, if there were more liquidators than one, by the continuing liquidators

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators be determined by the Court

Delegation of authority to appoint liquidators.

211. (1) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any

of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company

Arrangement when binding on creditors

212. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement

Power for liquidators to accept shares, etc, as a consideration for sale of property of company

213. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called the transferee company) the liquidator of the first mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interest, or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the special resolution,

he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner hereinafter provided.

(*4*) If the liquidator elects to purchase the member's interest, the purchase-money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(*5*) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

214. (*1*) The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration. **Mode of determining price.**

IX of 1899. (*2*) The provisions of the Indian Arbitration Act, 1899, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

215. (*1*) Where a company is being wound up voluntarily the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up, or to exercise as respects the enforcing of calls, or any other matters, all or any of the powers which the Court might exercise if the company were being wound up by the Court. **Power to apply to Court.**

(*2*) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

216. (*1*) Where a company is being wound up voluntarily, the liquidator may, from time to time, summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit. **Power of liquidator to call general meeting.**

(2) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting a statement in the prescribed form containing the prescribed particulars with respect to the proceedings in and the position of the liquidation.

Final meeting and dissolution.

217. (1) In the case of every voluntary winding up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement, specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in section 206.

(3) Within one week after the meeting, the liquidator shall file with the registrar a return of the holding of the meeting, and of its date, and in default of so doing, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

(4) The registrar on the filing of the return shall forthwith register it, and, on the expiration of three months from the registration of the return, the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under sub-section (4) is made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Cost of voluntary liquidation.

218. All costs, charges and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims at the date of the winding up.

219. The voluntary winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor or, in the case of an application by a contributory, that the rights of the contributories will be prejudiced by a voluntary winding up. Saving for rights of creditors and contributories

220. Where a company is being wound up voluntarily, and an order is made for winding up by the Court, the Court may, if it thinks fit, by the same or any subsequent order provide for the adoption of all or any of the proceedings in the voluntary winding up. Power of court to adopt proceedings of voluntary winding up

Winding up subject to supervision of Court.

221. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally on such terms and conditions as the Court thinks just. Power to order winding up subject to supervision

222. A petition for the continuance of a voluntary winding up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding up by the Court. Effect of petition for winding up subject to supervision

223. The Court may, in deciding between a winding up by the Court and a winding up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence. Court may have regard to wishes of creditors and contributories.

224. (*1*) Where an order is made for a winding up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator. Power for Court to appoint or remove liquidators.

(*2*) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(*3*) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal or by death or resignation.

(*Part V —Winding up.*)

225. (*1*) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily. **Effect of supervision order.**

(*2*) Except as provided in sub-section (*1*), and save for the purposes of section 196, any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court.

(*3*) In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidator, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding up subject to the supervision of the Court.

226. Where an order has been made for the winding up of a company subject to supervision, and an order is afterwards made for winding up by the Court, the Court may, by the last-mentioned order or by any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidator in the winding up by the Court. **Appointment in certain cases of voluntary liquidators to office of official liquidators.**

Supplemental Provisions.

227. (*1*) In the case of voluntary winding up every transfer of shares, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding up shall be void. **Avoidance of transfers, etc., after commencement of winding up.**

(*2*) In the case of a winding up by or subject to the supervision of the Court, every disposition of the property (including actionable claims) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up shall, unless the Court otherwise orders, be void.

(Part V.—Winding up.)

Debts of all descriptions to be proved.

228. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

Application of insolvency rules in winding up of insolvent companies.

229. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments.

230. (*1*) In a winding up there shall be paid in priority to all other debts—

(*a*) all revenue, taxes, cesses and rates, whether payable to the Crown or to a local authority, due from the company at the date hereinafter mentioned and having become due and payable within the twelve months next before that date;

(*b*) all wages or salary of any clerk or servant in respect of service rendered to the company within the two months next before the said date, not exceeding one thousand rupees for each clerk or servant; ~~and~~

(*c*) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piecework, in respect of services rendered to the company within the two months next before the said date.

(*2*) The foregoing debts shall—

(*a*) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion; and

(Part V.—Winding up.)

(*b*) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(*3*) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(*4*) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(*5*) The date hereinbefore in this section referred to is—

(*a*) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up-order; and

(*b*) in any other case, the date of the commencement of the winding up.

Fraudulent preference.

231. (*1*) Any transfer, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in his insolvency a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(*2*) For the purposes of this section the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the Court, and a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond with the act of insolvency in the case of an individual.

(*3*) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void.

(*Part V.—Winding up.*)

232. (*1*) Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress or execution put in force without leave of the Court against the estate or effects of the company after the commencement of the winding up shall be void. **Avoidance of certain attachments, executions, etc.**

(*2*) Nothing in this section applies to proceedings by the Government.

233. Where a company is being wound up a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum. **Effect of floating charge.**

234. (*1*) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in the case of a voluntary winding up, do the following things or any of them : **General scheme of liquidation may be sanctioned.**

(i) pay any classes of creditors in full ;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the company may be rendered liable ;

(iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(*2*) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

Power of Court to assess damages against delinquent directors, etc.

235. (*1*) Where, in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(*2*) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(*3*) The Indian Limitation Act, 1908, shall apply to an application under this section as if such application were a suit. **IX of 1908**

Penalty for falsification of books.

236. If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes, or is privy to the making of any false or fraudulent entry in any register book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Prosecution of delinquent directors, etc.

237. (*1*) If it appears to the Court in the course of a winding up by or subject to the supervision of the Court that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding up, or of its own motion, direct the official liquidator or the liquidator (as the case may be) to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

(*2*) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous

sanction of the Court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities.

Penalty for false evidence.

238. If any person, upon any examination upon oath authorised under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Meetings to ascertain wishes of creditors or contributories.

239. (*1*) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(*2*) In the case of creditors, regard shall be had to the value of each creditor's debt.

(*3*) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles.

Documents of company to be evidence.

240. Where any company is being wound up, all documents of the company and of the liquidators shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

Inspection of documents.

241. After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just, and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Disposal of documents of company.

242. (*1*) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say) :—

(*a*) in the case of a winding up by or subject to the supervision of the Court, in such way as the Court directs;

(*Part V.—Winding up.*)

(*b*) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(*2*) After three years from the dissolution of the company, no responsibility shall rest on the company or the liquidators, or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

Power of Court to declare dissolution of company void.

243. (*1*) Where a company has been dissolved, the Court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(*2*) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Information as to pending liquidations.

244. (*1*) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, file with the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(*2*) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall be punishable accordingly on the application of the liquidator.

XLV of 1860.

(*3*) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

245. (*1*) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in British India, or elsewhere within the dominions of His Majesty, before any Court, Judge or person lawfully authorised to take and receive affidavits, or in any part of India other than British India before any Court authorised or continued by the Governor General in Council, or in any place outside His Majesty's dominions before any of His Majesty's Consuls or Vice-Consuls. Court or person before whom affidavit may be sworn.

(*2*) All Courts, Judges, Justices, Commissioners, and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Part.

Rules.

246. (*1*) The High Court may, from time to time, make rules consistent with this Act and with the Code of Civil Procedure, 1908, concerning the mode of proceedings to be had for winding up a company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-divisions of the shares of a company, [1][and shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed.] Power of High Court to make rules. V of 1908.

(*2*) Without prejudice to the generality of the foregoing power, the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the official liquidator, and subject to the control of the Court, that is to say, the powers and duties of the Court in respect of—

(*a*) holding and conducting meetings to ascertain the wishes of creditors and contributories ;

(*b*) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets ;

[1] These words were inserted by s. 2 and Schedule I of the Repealing and Amending Act, 1915 (11 of 1915).

(*c*) requiring delivery of property or documents to the liquidator;

(*d*) making calls;

(*e*) fixing a time within which debts and claims must be proved.

Provided that the official liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without the special leave of the Court.

Removal of defunct Companies from Register.

Registrar may strike defunct company off register.

247. (*1*) Where the registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(*2*) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the local official Gazette with a view to striking the name of the company off the register.

(*3*) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the local official Gazette, and send to the company by post a notice that, at the expiration of three months from the date of that notice, the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(*4*) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the registrar may publish in the local official Gazette and send to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the local official Gazette, and, on the publication in the local official Gazette of this notice, the company shall be dissolved: Provided that the liability (if any) of every director and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court, on the application of the company or member or creditor, may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director, manager or other officer of the company, or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VI.

Registration Office and Fees.

248. (1) For the purposes of the registration of companies under this Act, there shall be offices at such places as the Local Government thinks fit, and no company shall be registered except at an office within the province in which, by the memorandum, the registered office of the company is declared to be established. **Registration offices.**

(Part VI.—Registration Office and Fees.)

(2) The Local Government may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make regulations[1] with respect to their duties.

(3) The salaries of the persons appointed under this section shall be fixed by the Local Government.

(4) The Local Government may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(5) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Local Government, not exceeding one rupee for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar on payment for the certificate, certified copy or extract, of such fees as the Local Government may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred words or fractional part thereof required to be copied.

(6) Whenever any act is by this Act directed to be done to or by the registrar it shall, until the Local Government otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the Local Government may for the time being authorise; but, in the event of the Local Government altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Local Government may appoint.

249. (1) There shall be paid to the registrar in respect of the several matters mentioned in Table B in the First Schedule the several fees therein specified, or such smaller fees as the Governor General in Council may direct.[2]

(2) All fees paid to the registrar in pursuance of this Act shall be accounted for to the Crown.

249-A. 1, 2.

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[1] For such regulations for Madras, *see* Madras Local Rules and Orders, 1923, Vol. I, Pt. II, p. 263.

[2] For notification directing payment of reduced fees *see* General Statutory Rules and Orders, Vol. IV, p. 469.

PART VII

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS

250. In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares, in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee, and, in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company: **Application of Act to companies formed under former Companies Acts.**

Provided that—

(1) nothing in Table A in the First Schedule shall apply to a company formed and registered under Act XIX of 1857 and Act VII of 1860, or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882;

of 1866. [of 1882.

(2) reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882, as the case may be.

251. This Act shall apply to every company registered but not formed under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882, in the same manner as it is hereinafter in this Act declared to apply to companies registered but not formed under this Act: **Application of Act to companies registered but not formed under former Companies Acts.**

of 1866. [of 1882.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the said Acts or any of them.

252. A company registered under Act XIX of 1857 and Act VII of 1860 or either of them may cause its shares to be transferred in the manner hitherto in use, or in such other manner as the company may direct. **Mode of transferring.**

PART VIII

COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT.

Companies capable of being registered.

253. (*1*) With the exceptions and subject to the provisions mentioned and contained in this section,—

(i) any company consisting of seven or more members, which was in existence on the first day of May eighteen hundred and eighty-two, including any company registered under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, and

(ii) any company formed after the date aforesaid whether before or after the commencement of this Act, in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted according to law, and consisting of seven or more members,

may at any time register under this Act as an unlimited company or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

(*2*) Provided as follows:—

(*a*) a company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council or by Letters Patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section;

(*b*) a company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council or by Letters Patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;

(*c*) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;

(*d*) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the articles) at a general meeting summoned for the purpose ,

(*e*) where a company not having the liability of its members limited by Act of Parliament or Act of the Governor General in Council or by Letters Patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting ,

(*f*) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding a specified amount

(*3*) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the articles

VI of 1882. (*4*) A company registered under the Indian Companies Act, 1882, shall not be registered in pursuance of this section

254. For the purposes of this Part as far as relates to registration of companies as companies limited by shares, a joint-stock company means a company having a permanent paid up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company, when registered with limited liability under this Act, shall be deemed to be a company limited by shares **Definition of "joint-stock company".**

Requirements for registration by joint stock companies.

255. Before the registration in pursuance of this Part of a joint-stock company, there shall be delivered to the registrar the following documents (that is to say):—

(*1*) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;

(*2*) a copy of any Act of Parliament, Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and

(*3*) if the company is intended to be registered as a limited company, a statement specifying the following particulars (that is to say):—

(*a*) the nominal share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists;

(*b*) the number of shares taken and the amount paid on each share;

(*c*) the name of the company, with the addition of the word "Limited" as the last word thereof; and

(*d*) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

Requirements for registration by other than joint-stock companies.

256. Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the registrar—

(*1*) a list showing the names, addresses and occupations of the directors of the company; and

(*2*) a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and

(3) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

257. The list of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be duly verified by the declaration of any two or more directors or other principal officers of the company. **Authentication of statement of existing companies.**

258. The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined. **Registrar may require evidence as to nature of company.**

259. (*1*) Where a banking company, which was in existence on the first day of May eighteen hundred and eighty-two, proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address. **On registration of banking company with limited liability, notice to be given to customers.**

(*2*) If the company omits to give the notice required by this section, then as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

260. No fees shall be charged in respect of the registration in pursuance of this Part of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some Act of Parliament or Act of the Governor General in Council or by Letters Patent. **Exemption of certain companies from payment of fees.**

261. When a company registers in pursuance of this Part with limited liability, the word " Limited " shall form and be registered as part of its name. **Addition of "Limited" to name.**

262. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, **Certificate of registration of existing companies.**

and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal.

Vesting of property on registration. **263.** All property, moveable and immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to or be vested in a company at the date of its registration in pursuance of this Part, shall, on registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

Saving of existing liabilities. **264.** The registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred or any contract entered into, by, to, with, or on behalf of, the company before registration.

Continuation of existing suits. **265.** All suits and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

Effect of registration under Act. **266.** When a company is registered in pursuance of this Part,—

(i) all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of co-partnery, Letters Patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidence as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(ii) all the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows (that is to say) —

(a) the regulations in Table A in the First Schedule shall not apply unless adopted by special resolution;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered;

(c) subject to the provisions of this section, the company shall not have power to alter any provision contained in any Act of Parliament or Act of the Governor General in Council relating to the company;

(d) subject to the provisions of this section, the company shall not have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the company;

(e) the company shall not have power to alter any provision contained in a Royal Charter or Letters Patent with respect to the objects of the company;

(f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability; or to pay or contribute to the payment of the cost and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this

Act with respect to the legal representatives and heirs of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply;

(iii) the provisions of this Act with respect to—

(*a*) the registration of an unlimited company as limited;

(*b*) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up:

(*c*) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up;

shall apply notwithstanding any provisions contained in any Act of Parliament, Act of the Governor General in Council, Royal Charter, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company;

(iv) nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act;

(v) nothing in this Act shall derogate from any lawful power of altering its constitution or regulations which may, by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, be vested in the company.

(Part VIII.—Companies authorised to register under this Act.)

267. (*1*) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement. **Power to substitute memorandum and articles for deed of settlement.**

(*2*) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as applicable, apply to an alteration under this section with the following modifications:—

(*a*) there shall be substituted for the printed copy of the altered memorandum required to be filed with the registrar a printed copy of the substituted memorandum and articles: and

(*b*) on the registration of the alteration being certified by the registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(*3*) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(*4*) In this section the expression "deed of settlement" includes any contract of co-partnery or other instrument constituting or regulating the company, not being an Act of Parliament, an Act of the Governor General in Council, a Royal Charter or Letters Patent.

268. The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company. **Power of Court to stay or restrain proceedings.**

269. Where an order has been made for winding up a company registered in pursuance of this Part, no suit or other legal proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose. **Suits stayed on winding up order.**

PART IX.

WINDING UP OF UNREGISTERED COMPANIES.

Meaning of "unregistered company".

270. For the purposes of this Part, the expression "unregistered company" shall not include a railway company incorporated by Act of Parliament or by an Act of the Governor General in Council, nor a company registered under the Indian Companies Act, 1866, or under **X of 1866.** any Act repealed thereby, or under the Indian Companies Act, 1882, or **VI of 1882.** under this Act, but, save as aforesaid, shall include any partnership, association or company consisting of more than seven members.

Winding up of unregistered companies.

271. (*1*) Subject to the provisions of this Part, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions:—

(i) an unregistered company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding up, be deemed to be registered in the province where its principal place of business is situate or, if it has a principal place of business situate in more than one province, then in each province where it has a principal place of business; and the principal place of business situate in that province in which proceedings are being instituted shall, for all the purposes of the winding up, be deemed to be the registered office of the company;

(ii) no unregistered company shall be wound up under this Act voluntarily or subject to supervision;

(iii) the circumstances in which an unregistered company may be wound up are as follows (that is to say):—

(*a*) if the company is dissolved, or has ceased to carry on business or is carrying on business only for the purpose of winding up its affairs;

(*b*) if the company is unable to pay its debts;

(*c*) if the Court is of opinion that it is just and equitable that the company should be wound up;

(iv) an unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;

(b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due or claimed to be due, from the company or from him in his character of member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied; and

(Part IX.—Winding up of Unregistered Companies.)

(*d*) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(*2*) Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

Contributories in winding up of unregistered companies.

272. (*1*) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(*2*) In the event of any contributory dying or being adjudged insolvent, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and to the assignees of insolvent contributories shall apply.

Power to stay or restrain proceedings.

273. The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

Suits stayed on winding up order.

274. Where an order has been made for winding up an unregistered company, no suit or other legal proceedings shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Directions as to property in certain cases.

275. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may, by the winding up order, or by any subsequent order, direct that all or any part of the property, moveable or immoveable, including all

interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to the company or to trustees on its behalf, is to vest in the official liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the official liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any suit or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

Provisions of this Part cumulative.

276. The provisions of this Part with respect to unregistered companies shall be in addition to, and not in restriction of, any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or official liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

PART X.

COMPANIES ESTABLISHED OUTSIDE BRITISH INDIA.

Requirements as to companies established outside British India.

277. (*1*) Every company incorporated outside British India, which at the commencement of this Act has a place of business in British India, and every such company which after the commencement of this Act establishes such a place of business within British India, shall, within six months from the commencement of this Act or within one month from the establishment of such place of business, as the case may be, file with the registrar in the province in which such place of business is situated,—

(*a*) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(*b*) the full address of the registered or principal office of the company;

(*c*) a list of the directors and managers (if any) of the company;

(*d*) the names and addresses of some one or more persons resident in British India authorised to accept on behalf of the company service of process and any notices required to be served on the company;

and, in the event of any alteration being made in any such instrument or in such address or in the directors or managers or in the names or addresses of any such persons as aforesaid, the company shall, within the prescribed time, file with the registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served, if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar of the province in which the company has its principal place of business—

(i) in a case where by the law, for the time being in force, of the country in which the company is incorporated such company is required to file with the public authority an annual balance-sheet,—a copy of that balance-sheet; or

(ii) in a case where no such provision is made by the law, for the time being in force, of the country in which the company is incorporated,—such a statement in the form of a balance-sheet as such company would, if it were a company formed and registered under this Act, be required to file in accordance with the provisions of this Act:

Provided that the Governor General in Council may, by [1]notification in the Gazette of India subject to such restrictions and conditions, if any, as he may therein prescribe, exempt any such company or any class of such companies from this requirement.

[1] For notifications exempting certain companies from the requirements of sub-section (3), see General Statutory Rules and Orders, Vol. IV, pp. 469—473.

(4) Every company to which this section applies and which uses the word "Limited" as part of its name, shall—

(a) in every prospectus inviting subscriptions for its shares or debentures in British India, state the country in which the company is incorporated; and

(b) conspicuously exhibit on every place where it carries on business in British India the name of the company and the country in which the company is incorporated in letters easily legible in English characters and also, if any place where it carries on business is beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place; and

(c) have the name of the company and of the country in which the company is incorporated mentioned in legible English characters in all bill heads and letter paper, and in all notices, advertisements and other official publications of the company.

(5) If any company to which this section applies fails to comply with any of the requirements of this section, the company, and every officer or agent of the company, shall be liable to a fine not exceeding five hundred rupees or, in the case of a continuing offence, fifty rupees for every day during which the default continues.

(6) For the purposes of this section—

(a) the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation;

(b) the expression "place of business" includes a share transfer or share registration office;

(c) the expression "director" includes any person occupying the position of director, by whatever name called; and

(d) the expression "prospectus" means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of the company.

(7) There shall be paid to the registrar for registering any document required by this section to be filed with him a fee of five rupees or such smaller fee as may be prescribed.

PART XI.

SUPPLEMENTAL.

Legal proceedings, offences, etc.

Cognizance of offences.

278. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act

(2) If any offence which by this Act is declared to be punishable by fine only is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

(3) Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act shall, for the purposes of the said Code, be deemed to be non-cognizable. V of 1898.

Applications of fines.

279. The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

Power to require limited company to give security for costs.

280. Where a limited company is plaintiff or petitioner in any suit or other legal proceeding, any Court having jurisdiction in the matter may, if it appears that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of Court to grant relief in certain cases.

281. If in any proceeding before any Court against a director of a company for negligence or breach of trust, it appears to such Court that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think proper.

(Part XI.—Supplemental.)

282. Whoever in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. **Penalty for false statement.**

283. If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding fifty rupees for every day upon which that name or title has been used. **Penalty for improper use of word "Limited."**

284. The provisions of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not been passed, and, for the purposes of the winding up, the Indian Companies Act, 1882, shall be deemed to remain in full force. **Saving of pending proceedings for winding up.** **VI of 1882.**

285. Every instrument of transfer or other document made before the commencement of this Act in pursuance of any enactment hereby repealed, shall be of the same force as if this Act had not been passed, and for the purposes of that instrument or document the repealed enactment shall be deemed to remain in full force. **Saving of document.**

286. (*1*) The offices existing at the commencement of this Act for registration of joint-stock companies shall be continued as if they had been established under this Act. **Former registration offices, registers, and registrars, continued.**

(*2*) Registers of companies kept in any such existing offices shall respectively be deemed part of the registers of companies to be kept under this Act.

(*3*) The existing registrars, assistant registrars and officers in those offices shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but

(*Part XI.—Supplemental.*)

subject to any regulations of the Local Government with regard to the execution of their duties.

Savings for Indian Life Assurance Companies Act, 1912, and Provident Insurance Societies Act, 1912.

287. Nothing in this Act shall affect the provisions of the Indian Life Assurance Companies Act, 1912, or of the Provident Insurance Societies Act, 1912. **VI of 1912.** **V of 1912.**

Construction of "registrar of joint-stock companies" in Act XXI of 1860.

288. In sections 1 and 18 of Act No XXI of 1860 (for the registration of Literary, Scientific and Charitable Societies), the words "registrar of joint-stock companies" shall be construed to mean the registrar under this Act.

Act not to apply to Banks of Bengal, Madras or Bombay.

289. Save as provided in sections 188 and 189, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

Repeal of Acts and Savings.

290. (*1*) The enactments mentioned in the Fourth Schedule are hereby repealed to the extent specified in the fourth column thereof:

Provided that the repeal shall not affect—

(*a*) the incorporation of any company registered under any enactment hereby repealed; nor

(*b*) Table B[1] in the Schedule annexed to Act No. XIX of 1857, or any part thereof, so far as the same applies to any company existing at the commencement of this Act; nor

(*c*) Table A[2] in the First Schedule annexed to the [3]Indian Companies Act, 1882, or any part thereof, so far as the same applies to any company existing at the commencement of this Act. **VI of 1882.**

(*2*) All fees directed, resolutions passed and other things duly done under any enactment hereby repealed, shall be deemed to have been directed, passed or done under this Act.

(*3*) The mention of particular matters in this section or in any other section of this Act shall not prejudice the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals. **X of 1897.**

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1 *See* Appendix I to this Act, *infra*, p. 565.
2 *See* Appendix II to this Act, *infra*, p. 578.
3 Repealed by this Act.

SCHEDULES.

THE FIRST SCHEDULE.

(*See sections 2, 17, 18, 79, 266.*)

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations, unless the context otherwise requires, expressions defined in the Indian Companies Act, 1913, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and *vice versâ*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 103 of the Indian Companies Act, 1913, if, and so far as, those restrictions are binding upon the company.

Shares.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the

terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent. of the nominal amount of the share, and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 101 and 104 of the Indian Companies Act, 1913, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding eight annas, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

9. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the director thinks fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on shares.

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payments) pay to the company at the time or times so specified the amount called on his shares.

13. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of

issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and transmission of shares.

18. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:

I, A B of , in consideration of the sum of rupees paid to me by C D of (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [*or* shares] numbered in the undertaking called the Company, Limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [*or* shares] subject to the conditions aforesaid. As witness our hands the day of .

Witness to the signatures of, etc.

20. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of

transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless—

(a) a fee not exceeding two rupees is paid to the company in respect thereof, and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made: but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

23. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of shares.

24. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains

unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days, from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company received payment in full of the nominal amount of the shares.

29. A duly verified declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of shares into stock.

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share-warrants), as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder".

Share-warrants.

35. The company may issue share-warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the

directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and the amount of the stamp duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends, or other moneys on the shares included in the warrant.

36. A share-warrant shall entitle the bearer to the shares included in it and the share shall be transferred by the delivery of the share-warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share-warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share-warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited, the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share-warrant. The company shall, on two days' written notice, return the deposited share-warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share-warrant, sign a requisition for calling a meeting of the company, or attend, or vote or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share-warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share-warrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

Alteration of Capital.

41. The directors may, with the sanction of an extraordinary resolution of the company increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

44. The company may, by special resolution,—

(*a*) consolidate and divide its share capital into shares of larger amount than its existing shares;

(*b*) by sub-division of its existing shares or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (*d*) of sub-section (*1*) of section 50 of the Indian Companies Act, 1913;

(*c*) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person;

(*d*) reduce its share capital in any manner and with, and subject to, any incident authorised, and consent required, by law.

General Meetings

45. The statutory general meeting of the company shall be held within the period required by section 77 of the Indian Companies Act, 1913.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisitionists, as provided by section 78 of the Indian Companies Act, 1913. If at any time there are not within British India sufficient directors capable of acting to form a quorum, any director or any two members of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be called by the directors.

Proceedings at General Meeting.

49. Fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of

meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When

a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll votes may be given either personally or by proxy : Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 80 of the Indian Companies Act, 1913, is in force.

65. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under the common seal, or under the hand of an officer or attorney so authorised. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than seventy-two hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve :—

Company, Limited.

"I of in the district of , being a member of the Company, Limited, hereby appoint of as my proxy to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the day of and at any adjournment thereof."

Signed this day of

(The First Schedule.—Table A.—Regulations for Management of a Company limited by shares.)

Directors

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 85 of the Indian Companies Act, 1913.

Powers and duties of Directors.

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors, but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time

exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company or created by it, and to keeping a register of the directors, and to sending to the registrar an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose—

(a) of all appointments of officers made by the directors;

(b) of the names of the directors present at each meeting of the directors and of any committee of the directors;

(c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

77. The office of director shall be vacated if the director—

(a) ceases to be a director by virtue of section 85 of the Indian Companies Act, 1913, or

(*b*) holds, or any partner of his, or the firm of which he is a member, holds, any other office of profit under the company except that of managing director or manager; or

(*c*) is adjudged insolvent; or

(*d*) is found lunatic or becomes of unsound mind; or

(*e*) is concerned or participates in the profits of any contract with the company; or

(*f*) is punished with imprisonment for a term exceeding six months:

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director, but a director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

Rotation of Directors.

78. At the first ordinary meeting of the company, the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year, one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest to one-third shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors or such of them as have not had their places filled up shall be deemed to have been re-elected at the adjourned meeting.

83. The Company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring on the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The Company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead: the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

87. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time, summon a meeting of directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

(The First Schedule.—Table A—Regulations for Management of a Company limited by shares.)

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office, but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so [1][formed] shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings: if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95. The company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividends shall be paid otherwise than out of profits.

1 Substituted for the word "found" by the Repealing and Amending Act, 1914 (10 of 1914), Sch. I.

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts.

103. The directors shall cause true accounts to be kept—

(*a*) of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place; and

(*b*) of the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or

regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. The profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

108. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

109. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

110. The directors shall in all respects comply with the provisions of sections 130 to 135 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

(The First Schedule—Table A.—Regulations for Management of a Company limited by shares.)

Audit

111. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

Notices.

112. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address or (if he has no registered address in British India) to the address, if any, within British India supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

113. If a member has no registered address in British India, and has not supplied to the company an address within British India for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

114. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

115. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in British India supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by shares. Table B.—Table of Fees to be paid to the Registrar.)

116. Notice of every general meeting shall be given in some manner hereinbefore authorised to (*a*) every member of the company (including bearers of share-warrants) except those members who (having no registered address within British India) have not supplied to the company an address within British India for the giving of notices to them, and also to (*b*) every person entitled to a share in consequence of the death or insolvency of a member, who but for his death or insolvency would be entitled to receive, notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

(See sections 249 and 262.)

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

I.—By a company having a share capital.

	Rs.	A.	P.
1. For registration of a company whose nominal share capital does not exceed Rs. 20,000, a fee of	40	0	0
2. For registration of a company whose nominal share capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital (that is to say)—			
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees	20	0	0
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 50,000 rupees up to 10,00,000 rupees	5	0	0
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 10,00,000 rupees	1	0	0
3. For registration of any increase of share capital made after the first registration of the company, the same fees per 10,000 rupees or part of 10,000 rupees, as would have been payable if such increased share capital had formed part of the original share capital at the time of registration:			
Provided that no company shall be liable to pay in respect of nominal share capital on registration, or afterwards, any greater amount of fees than 1,000 rupees taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration.			
4. For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.			

(The First Schedule—Table B—Table of Fees to be paid to the Registrar.)

I.—By a company having a share capital—contd.

	Rs.	A.	P.
5. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up .	5[1]	0	0
6. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of .	5	0	0

II.—By a company not having a share capital.

	Rs.	A.	P.
1. For registration of a company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of	400	0	0
5. For registration of any increase on the number of members made after the registration of the company, the same fees as would have been payable [2][in respect of such increase] if such increase had been stated in the articles of association at the time of registration	[3]*		
Provided that no one company shall be liable to pay on the whole a greater fee than Rs 400 in respect of its number of members, taking into account the fee paid on the first registration of the company.			
6. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act the same fee as is charged for registering a new company.			
7. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up .	5[1]	0	0
8. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of	5	0	0

[1] For reduction of this fee *see* General Statutory Rules and Orders, Vol. IV, p. 469.

[2] These words were inserted by Notification No 1-D., dated 3rd November 1917, *see* Gazette of India, 1917, Pt. I, p. 1787.

[3] The figure "5" was omitted by *ibid*.

THE SECOND SCHEDULE.

(See section 98.)

STATEMENT IN LIEU OF PROSPECTUS

filed by

LIMITED

pursuant to section 98 of the Indian Companies Act, 1913.

Presented for filing by

THE INDIAN COMPANIES ACT, 19 .

LIMITED.

STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of the company.	Rs.
Divided into	shares of Rs. each. " " " " " "
Names, descriptions and addresses of directors or proposed directors and of the managers or proposed managers.	
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash. The consideration for the intended issue of those shares and debentures.	1. shares of Rs. fully paid. 2. shares upon which Rs. per share credited as paid. 3. Debenture Rs. 4. Consideration.
Names and addresses of (*a*) vendors of property purchased or acquired, (*b*) or proposed to be purchased or acquired by the company. Amount (in cash, shares or debentures) payable to each separate vendor.	

(*a*) For definition of vendor, *see* section 94 of the Indian Companies Act, 1913.

(*b*) *See* section 95 of the Indian Companies Act, 1913.

(*The Second Schedule.—Statement in lieu of Prospectus.*)

The nominal share capital of the company.	Rs.
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill	Total purchase price . Rs. Cash . . . . . ,, Shares. . . . . ,, Debentures . . . . ,, Goodwill . Rs.
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company or	Amount paid. ,, payable.
Rate of the commission	Rate per cent.
Estimated amount of preliminary expenses . .	Rs.
Amount paid or intended to be paid to any promoter. Consideration for the payment	Name of promoter Amount Rs. Consideration :—
Dates of, and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement).	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the company (if any).	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.	
Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.	Nature of the provisions.

(Signature of the persons above-named as directors or proposed directors, or of their agents authorised in writing.)

THE THIRD SCHEDULE.

FORM A.

(*See sections 6 and 151.*)

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st.—The name of the company is "The Eastern Steam Packet Company, Limited."

2nd.—The registered office of the company will be situate in the province of Bombay

3rd.—The objects for which the company is established are "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object".

4th.—The liability of the members is limited.

5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of , merchant	200
2. C. D. ,, ,,	25
3. E. F. ,, ,,	30
4. G. H. ,, ,,	40
5. I. J. ,, ,,	15
6. K. L. ,, ,,	5
7. M. N. ,, ,,	10
TOTAL SHARES TAKEN	325

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

(The Third Schedule.—Form B.)

FORM B.

(See sections 7 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL

Memorandum of Association.

1st.—The name of the company is "The Mutual Calcutta Marine Association, Limited".

2nd.—The registered office of the company will be situate in Calcutta.

3rd.—The objects for which the company is established are "the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one hundred rupees.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

"1. A B of
"2. C. D. of
"3. E. F. of
"4. G. H. of
"5. I. J. of
"6. K. L. of
"7. M. N. of

Dated the *day of* .

Witness to the above signatures.

X. Y. of .

(*The Third Schedule.—Form B.*)

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

Number of Members.

1. The company for the purpose of registration is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business or the association requires it, register an increase of members.

Definition of Members.

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

4. The first general meeting shall be held at such time not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, call an extraordinary general meeting.

(*The Third Schedule.—Form B.*)

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition the directors shall forthwith proceed to call a general meeting : if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members may themselves call a meeting.

Proceedings at General Meetings.

10. Fourteen days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say) :—if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members with this limitation, that no quorum shall in any case exceed ten.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if called on the requisition of the members, shall be dissolved; in any other case it shall

(*The Third Schedule.—Form B.*)

stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die.*

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members.

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot, he may vote by his committee or other legal guardian.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 80 of the Indian

(*The Third Schedule—Form B.*)

Companies Act, 1913, is in force. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

23. (1) No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

(2) The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

24. Any instrument appointing a proxy shall be in the following form:—

Company, Limited,

I, , of , being a Member of the Company, Limited, hereby appoint of as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the day of and at any adjournment thereof.

Signed this day of .

Directors.

25. The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed, the subscribers of the memorandum of association shall, for all the purposes of the Indian Companies Act, 1913, be deemed to be directors.

Powers of Directors.

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Indian Companies Act, 1913, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the

(The Third Schedule.—Form B.)

company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Elections of Directors.

28. The directors shall be elected annually by the company in general meeting.

Business of Company.

(Here insert *rules as to mode in which business of insurance is to be conducted.*)

Audit.

29. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word " members " were substituted for " shareholders," and as if " first general meeting " were substituted for " statutory meeting ".

Notices.

30. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses and Descriptions of Subscribers.

" 1. A. B. of
" 2. C. D. of
" 3. E. F. of
" 4. G. H. of
" 5. I. J. of
" 6. K. L. of
" 7. M. N. of

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

(*The Third Schedule —Form C.*)

FORM C.

(*See sections 7 and 151*)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND HAVING A SHARE CAPITAL.

Memorandum of Association

1st.—The name of the company is " The Snowy Range Hotel Company, Limited."

2nd.—The registered office of the company will be situate in the province of Bengal.

3rd.—The objects for which the company is established are " the facilitating travelling in the Snowy Range, by providing hotels and conveyances by sea and by land for the accommodation of travellers and the doing all such other things as are incidental or conducive to the attainment of the above object.".

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding fifty rupees.

6th.—The share capital of the company shall consist of five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number

(The Third Schedule.—Form C.)

of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of Subscribers.	Number of shares taken by each Subscriber.
"1. A. B. of	200
"2. C. D. of	25
"3. E. F. of	30
"4. G. H. of	40
"5. I. J. of	15
"6. K. L. of	5
"7. M. N. of	10
TOTAL SHARES TAKEN .	325

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

Articles of Association to accompany preceding Memorandum of Association.

1. The share capital of the company is five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with these articles and to apply to the company.

(The Third Schedule.—Forms C and D.)

Names, Addresses and Descriptions of Subscribers.

"1. A. B of , merchant.
"2. C. D. of
"3. E. F. of
"4. G. H. of
"5. I. J. of
"6. K. L. of
"7. M. N. of

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

FORM D.

(See sections 8 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1st.—The name of the company is "The Patent Stereotype Company".

2nd.—The registered office of the company will be situate in the province of Bombay.

3rd.—The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates of which method P. Q., of Bombay, is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a company in pursuance of this memorandum of

(The Third Schedule.—Form D.)

association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of Subscribers.	Number of shares taken by each Subscriber.
"1. A. B. of	3
"2. C. D. of	2
"3. E. F. of	1
"4. G. H. of	2
"5. I. J. of	2
"6. K. L. of	1
"7. M. N. of	1
TOTAL SHARES TAKEN .	12

Dated the *day of* *19* .

Witness to the above signatures.

X. Y., of .

Articles of Association to accompany the preceding Memorandum of Association.

1. The share capital of the company is twenty thousand rupees, divided into twenty shares of one thousand rupees each.

2. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with these articles and to apply to the company.

Names, Addresses and Descriptions of Subscribers.

"1. A. B. of , merchant
"2. C. D. of
"3. E. F. of
"4. G. H. of
"5. I. J. of
"6. K. L. of
"7. M. N. of

Dated the *day of* *19* .

Witness to the above signatures.

X. Y., of .

(The Third Schedule.—Form E.)

FORM E.

AS REQUIRED BY PART II OF THE ACT.

(See section 32.)

Summary of Share Capital and Shares of the Company, Limited, made up to the day of 19 (being the day of the first ordinary general meeting in 19).

Nominal share capital Rs. divided into* { shares of Rs. each. / shares of Rs. each.	
Total number of shares taken up* to the day of 19 which number must agree with the total shown in the list as held by existing members	
Number of shares issued subject to payment wholly in cash .	
Number of shares issued as fully paid up otherwise than in cash .	
Number of shares issued as partly paid up to the extent of per share otherwise than in cash	
†There has been called up on each—of shares	Rs.
There has been called up on each—of shares	Rs.
There has been called up on each—of shares	Rs.
‡Total amount of calls received, including payments on application and allotment	Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash	Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of per share	Rs.
Total amount of calls unpaid	Rs.
Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary	Rs.
Total amount (if any) paid on §shares forfeited	Rs.
Total amount of shares and stock for which share-warrants are outstanding	Rs.
Total amount of share-warrants issued and surrendered respectively since date of last summary	Rs.
Number of shares or amount of stock comprised in each share-warrant	Rs.
Total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act	Rs.

* When there are shares of different kinds or amounts (e g., Preference and Ordinary or Rs. 200 or Rs. 100) state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds, state them separately.

‡ Include what has been received on forfeited as well as on existing shares.

§ State the aggregate number of shares forfeited.

(*The Third Schedule —Form E.*)

List of Persons holding shares in the Company, Limited, on the day of 19 , and of persons who have held shares therein at any time since the date of the last return, showing their names and addresses and an account of the shares so held.

Folio in register ledger containing particulars.	Names, Addresses and Occupations.				Account of Shares.					
						§Particulars of Shares transferred since the date of the last return by persons who are still Members.		§Particulars of Shares transferred since the date of the last return by persons who have ceased to be Members.		
	Name in full.	Father's name.	Address.	Occupation or caste.	*Number of shares held by existing Members at date of return.	Number.†	Date of Registration of Transfer.	Number.‡	Date of Registration of Transfer.	Remarks.

* State the aggregate number of shares forfeited (if any).

† The aggregate number of shares held, and not the distinctive numbers, must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

‡ When the shares are of different classes, these columns may be sub-divided so that the number of each class held or transferred may be shown separately.

§ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the remarks column immediately opposite the particulars of each transfer.

(*The Third Schedule.—Form E.*)

Names and addresses of the persons who are the Directors of the , Limited, on the day of 19 .

Names.	Addresses.

Names and addresses of the persons who are the managers of the , Limited, on the day of 19 .

Names	Addresses.

NOTE.—Banking companies must add a list of all their places of business.

I, , do hereby certify that the above list and summary truly and correctly states the facts as they stood on day of 19 .

(Signature)..

(State whether director, manager or secretary.)

(The Third Schedule.—Form F.)

FORM F.

(See section 132.)

....LIMITED.

Balance-sheet as at..19 .

CAPITAL AND LIABILITIES.	Rs	A.	P.	Rs	A.	P.
CAPITAL—						
Authorised Capital..shares of Rs.....each . .	..	..	..			
Issued Capital..shares of Rs.....each . . .	..	..	..			
Subscribed Capital..shares of Rs.....each . .	..	..	..			
Amount called up at Rs.......per share . .	..	..	..			
Less—Calls unpaid	..	..	..			
Add—Forfeited shares (amount paid up) . . .	..	..	..	..	.	..
RESERVE FUND OR DEVELOPMENT FUND . . .				..	..	..
ANY SINKING FUND				..	..	..
ANY OTHER FUND CREATED OUT OF NET PROFITS .				..	..	..
ANY PENSION OR INSURANCE FUND				..	..	..
PROVISION FOR BAD AND DOUBTFUL DEBTS . .				..	..	..
LOANS ON MORTGAGE OR MORTGAGE DEBENTURE BONDS.				..	..	..
LOANS OTHERWISE SECURED				..	..	..
(Stating the nature of security.)						

PROPERTY AND ASSETS.	Rs.	A.	P.	Rs.	A.	P.
FIXED CAPITAL EXPENDITURE				..	..	..
(Distinguishing as far as possible between expenditure upon goodwill, land, buildings, lease-holds, railway sidings, plant, machinery, furniture, development of property, patents, trade marks and designs, interest paid out of Capital during construction, etc., and stating in every case the original cost and the total Depreciation written off under each head.)						
PRELIMINARY EXPENSES				..	..	..
COMMISSION OR BROKERAGE				..	..	..
(Commission or Brokerage paid for underwriting or placing shares or debentures until written off.)						
STORES AND SPARE GEAR				..	..	..
LOOSE TOOLS				..	..	..
LIVE STOCK				..	..	..
STOCK IN TRADE				..	..	..
(Stating mode of valuation, *e.g.*, cost or market-value.)						
BILLS OF EXCHANGE				..	..	..

(The Third Schedule.—Form F.)

LOANS UNSECURED				..	..	..
INTEREST				..	..	..
(Accrued on mortgages, Debentures or other Secured Loans.)						
UNCLAIMED DIVIDENDS				..	..	..
LIABILITIES				..	..	..
For Goods supplied	..	..	..			
„ Expenses	..	..	..			
„ Acceptances	..	..	..			
„ Other Finance	..	..	..			
ADVANCE PAYMENTS AND UNEXPIRED DISCOUNTS .				..	..	..
(For the portion for which value has still to be given, *e.g.*, in the case of the following classes of companies—Newspaper, Fire Insurance, Theatre, Club, Banking, Steamship Companies, etc.)						
PROFIT AND LOSS				..	..	..
Balance as per previous Balance-sheet	..	..	..			
Less—Appropriation thereof	..	..	..			
Balance brought forward	..	..	..			
Profit since last Balance-sheet	..	..	..			
(N.B.—These details need not be given if the same be contained in a Profit and Loss account attached to the Balance-sheet.)						
				..	.	..
CONTINGENT LIABILITIES—						
Claims against the Company not acknowledged as debts.	..	..	..			
Moneys for which the Company is contingently liable .	..	..	..			
Arrears of Cumulative Preference Dividends . .	..	..	..			

BOOK DEBTS				..	..	..
(Distinguishing in the case of a Bank between those considered good and in respect of which the Bank is fully secured and those considered good for which the Bank holds no security other than the debtor's personal security, and distinguishing in all cases between debts considered good and debts considered doubtful or bad Debts due by directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated in all cases)						
ADVANCES				..	..	..
(Recoverable in cash or in kind or for value to be received, *e.g.*, Rates, Taxes, Insurance, etc.)				..	..	..
INVESTMENTS				..	..	..
(Nature of Investment and mode of valuation, *e g.*, cost or market-value)				..	..	..
INTEREST ACCRUED ON INVESTMENTS						
CASH AND OTHER BALANCES						
Amount in hand	..	.	.			
Balances with Agents and Bankers (in detail showing whether on deposit or current account, etc.)	..	..	..			
Profit and Loss (giving, in the case of a debit balance, details as far as possible as in the case of a credit balance).				..	..	..
				..	..	..

(The Third Schedule.—Form G. The Fourth Schedule.—Enactments repealed.)

FORM G.

(See section 136.)

FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND INSURANCE COMPANIES AND DEPOSIT, PROVIDENT, OR BENEFIT SOCIETIES.

*The share capital of the company is Rs. divided into shares of Rs. each.

The number of shares issued is . Calls to the amount of Rs per share have been made, under which the sum of Rs. has been received.

The liabilities of the company on the thirty-first day of December (or thirtieth of June) were :—

Debts owing to sundry persons by the company :
Under decree, Rs.
On mortgages or bonds, Rs.
On notes, bills or hundis, Rs
On other contracts, Rs.
On estimated liabilities, Rs.

The assets of the company on that day were :
Government securities [stating them], Rs.
Bill of exchange, hundis and promissory notes, Rs.
Cash at the Bankers, Rs.
Other securities, Rs.

* If the company has no capital divided into shares, the portion of the statement relating to capital and share must be omitted.

THE FOURTH SCHEDULE.

(See section 290.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1882 .	VI	The Indian Companies Act, 1882 .	So much as has not been repealed.
1887 .	VI	The Indian Companies Act (1882) Amendment Act, 1887.	The whole.
1891 .	XII	The Amending Act, 1891 . . .	So much of the Second Schedule as relates to the Indian Companies Act, 1882.
1895 .	XII	The Indian Companies (Memorandum of Association) Act, 1895.	The whole.
1899 .	IX	The Indian Arbitration Act, 1899 .	The second proviso to section 3 relating to the Indian Companies Act, 1882.
1900 .	IV	The Indian Companies (Branch Registers) Act, 1900.	The whole.
1910 .	IV	The Indian Companies (Amendment) Act, 1910.	The whole.

APPENDIX I.

(Table B in Schedule to Act XIX of 1857.)[1]

Regulations for Management of the Company.

Shares.

1. No person shall be deemed to have accepted any share in the Company unless he has testified his acceptance thereof by writing under his hand in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders, in respect of all moneys unpaid on their shares, as they think fit, provided that twenty-one days' notice at least is given of each call; and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If, before or on the day appointed for payment, any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of 5 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive, from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for, and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

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1 See s. 290 (1) (b) of the Indian Companies Act, 1913 (7 of 1913).

The Table is reproduced here as an Appendix to Act VII of 1913 for convenience of reference.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding eight annas as the Company may prescribe, be entitled to a certificate, under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of such sum, not exceeding eight annas, as the Company may prescribe.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

11. The executors or administrators or representatives of a deceased shareholder shall be the only persons recognized by the Company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any shareholder, or in consequence of the marriage of any female shareholder or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the Company.

13. Any person who has become entitled to a share in any way other than by transfer may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the Company accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the Company shall register the transferee as a shareholder.

Forfeiture of Shares.

16. If any shareholder fails to pay any call due on the appointed day, the Company may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

17. The notice shall name a further date, and a place or places, being a place or places at which calls of the Company are usually made payable, on and at which such call is to be paid; it shall also state that, in the event of non-payment at the time and place appointed, the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit.

20. Any shareholder whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

Increase in Capital.

21. The Company may, with the sanction of the Company previously given in general meeting, increase its capital.

22. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls or otherwise, as if it had been part of the original capital.

General Meetings.

23. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the Company, and at such place as the directors may determine.

24. Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the [1][first Monday in February] in every year, at such place as may be determined by the directors.

[1] The bracketted portion read originally as follows: "   day of   ".

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

25. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

26. The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one-fifth part of the shares of the Company, convene an extraordinary general meeting.

27. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

28. Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting; if they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

29. Seven days' notice at the least, specifying the place, the time, the hour of meeting, and the purpose for which any general meeting is to be held, shall be given by advertisement, or in such other manner (if any) as may be prescribed by the Company.

30. Any shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

31. The notice required of a shareholder shall be given by leaving a copy of the resolution at the registered office of the Company.

32. No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business; and such quorum shall be ascertained as follows (that is to say): if the shareholders belonging to the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that it shall not be necessary for any quorum in any case to exceed forty.

33. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened

(*Appendix I.—Table B in Schedule to Act XIX of 1857.*)

upon the requisition of the shareholders, shall be dissolved : in any other case it shall stand adjourned to the following day at the same time and place; and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die*.

34. The chairman (if any) of the Board of Directors shall preside as chairman at every meeting of the Company.

35. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be chairman of such meeting.

36. The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

38. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Shareholders.

39. Every shareholder shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot, he may vote by his committee; and if any shareholder is a minor, he may vote by his guardian, or any one of his guardians if more than one.

41. If more persons than one are jointly entitled to a share or shares, the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

42. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by any deed of settlement after the death of any person who shall have been entitled for life to the dividends of such shares.

43. Votes may be given either personally or by proxies; a proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under their common seal.

44. No person shall be appointed a proxy who is not a shareholder, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of one month from the date of its execution.

Directors.

45. The number of the directors, and the names of the first directors shall be determined by the subscribers of the memorandum of association.

46. Until directors are appointed, the subscribers of the memorandum of association shall for all the purposes of this Act be deemed to be directors.

Powers of Directors.

47. The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not by this Act or by the articles of association (if any) declared to be exercisable by the Company in general meeting, subject nevertheless to any regulations of the articles of association, to the provisions of this Act, and to such regulations, not being inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in general meeting, but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(*Appendix I.—Table B in Schedule to Act XIX of 1857.*)

Disqualification of Directors.

48. The office of director shall be vacated—

if he holds any other office or place of profit under the Company,

if he becomes bankrupt or insolvent,

if he is concerned in or participates in the profits of any contract with the Company;

if he participates in the profits of any work done for the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a shareholder in any incorporated Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless he shall not vote in respect of such contract or work; and, if he does so vote, his vote shall not be counted, and he shall incur a penalty, not exceeding five hundred rupees.

Rotation of Directors.

49. At the first ordinary meeting after the incorporation of the Company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

50. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the Company shall, unless the directors agree among themselves, be determined by ballot; in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

51. A retiring director shall be re-eligible.

52. The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

53. If at any meeting at which an election of directors ought to take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place; and if at such adjourned meeting no election takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

(Appendix I—Table B in Schedule to Act XIX of 1857.)

54. The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

55. Any casual vacancy occurring in the Board of Directors may be filled up by the directors; but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

56. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business; questions arising at any meeting shall be decided by a majority of votes; in case of an equality of votes, the chairman, in addition to his original vote, shall have a casting vote: a director may at any time summon a meeting of the directors.

57. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

58. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit: any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

59. A committee may elect a chairman of their meetings: if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

60. A committee may meet and adjourn as they think proper: questions at any meeting shall be determined by a majority of votes of the members present; and in case of an equal division of votes, the chairman shall have a casting vote.

61. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect

in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

62. The director shall cause minutes to be made in books provided for the purpose—

(1) of all appointments of officers made by the directors;

(2) of the names of the directors present at each meeting of directors and committees of directors;

(3) of all orders made by the directors and committees of directors; and

(4) of all resolutions and proceedings of meetings of the Company, and of the directors and committees of directors.

And any such minute as aforesaid, if signed by any person purporting to be the chairman of any meeting of directors, or committee of directors, shall be receivable in evidence without any further proof.

63. The Company, in general meeting, may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead: the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

66. The directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the Company on account of calls or otherwise.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

67. Notice of any dividend that may have been declared shall be given to each shareholder, or sent by post or otherwise to his registered place of abode; and all dividends unclaimed for three years, after having been declared, may be forfeited by the directors for the benefit of the Company.

68. No dividend shall bear interest as against the Company.

Accounts.

69. Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year made up to a date not more than three months before such meeting.

70. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters; every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

71. A balance-sheet shall be made out in every year, and laid before the general meeting of the Company; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

72. A printed copy of such balance-sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

Audit.

73. The accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors to be elected by the Company in general meeting.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

74. If not more than one auditor is appointed, all the provisions herein contained relating to auditors shall apply to him.

75. The auditors need not be shareholders in the Company: no person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

76. The election of auditors shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

77. The remuneration of the auditors shall be fixed by the Company at the time of their election.

78. Any auditor shall be re-eligible on his quitting office.

79. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

80. If no election of auditors is made in manner aforesaid, the Local Government may, on the application of one-fifth in number of the shareholders of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

81. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

82. Every auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the Company; he may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the directors or any other officer of the Company.

83. The auditors shall make a report to the shareholders upon the balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations

or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

84. Notices requiring to be served by the Company upon the shareholders may be served either personally, or by leaving the same, or sending them through the post in a letter addressed to the shareholders, at their registered places of abode.

85. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

Form of Balance-Sheet referred to in Table B.

Dr. *Balance Sheet* of the* *Company made up to* *18* . *Cr.*

Capital and Liabilities.					Property and Assets.				
			R. a. p.	R. a. p.				R. a. p.	R. a. p.
I.—Capital . .	1	Showing— The total amount received from the shareholders; showing also— (a) The number of shares . (b) The amount paid per share (c) If any arrears of calls, the nature of the arrear, and the names of the defaulters . . . . (Any arrears due from any director or officer of the Company to be separately stated.) (d) The particulars of any forfeited shares . . .			III.—Property held by the Company.	4	Showing— Immoveable property, distinguishing— (a) Land (describing tenure). . (b) Buildings		
						5	Moveable property, distinguishing— (c) Stock-in-trade . . . (d) Plant . . . . . . (The cost to be stated with deduction for deterioration in value as charged to the Reserve Fund or Profit and Loss.)		
II.—Debts and Liabilities of the Company.	2	Showing— The amount of loans on mortgage or debenture bonds			IV.—Debts owing to the Company.	6	Showing— Debts considered good for which the Company hold bills or other securities		
	3	The amount of debts owing by the Company, distinguishing— (a) Debts for which acceptances have been given . . (b) Debts to tradesmen for supplies of stock-in-trade or other articles . . . (c) Debts of law expenses . . (d) Debts for interest on debentures or other loans . . (e) Unclaimed dividends . . (f) Debts not enumerated above.				7	Debts considered good for which the Company hold no security . .		
						8	Debts considered doubtful and bad . . (Any debt due from a director or other officer of the Company to be separately stated.)		
					V.—Cash and Investment.	9	Showing— The nature of investment and rate of interest		
						10	The amount of cash, where lodged, and if bearing interest . . .		
VI.—Reserve Fund.		Showing— The amount set aside from profits to meet contingencies							
VII.—Profit and Loss.		Showing— The disposable balance for payment of dividend, etc.							
Contingent Liabilities.		Claims against the Company not acknowledged as debts . . . . Moneys for which the Company is contingently liable							

* *See* clauses 71 and 72 of the foregoing Table B.

APPENDIX II.

(*Table A in the First Schedule to Act VI of 1882.*)[1]

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3) If such certificate is worn out or lost, it may be renewed on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the moneys due upon the

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[1] *See* section 290 (1) (c) of the Indian Companies Act, 1913 (7 of 1913).

The Table is reproduced here as an Appendix to Act VII of 1913 for convenience of reference.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

shares held by him beyond the sums actually called for; and, upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

(8) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the Company shall be transferred in the following form:

I, A B of , in consideration of the sum of rupees paid to me by C D of , do hereby transfer to the said C D the share (or shares) numbered standing in my name in the books of the Company, to hold unto the said C D, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands the day of .

(10) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may, from time to time, be required by the Company.

(*Appendix II.—Table A in the First Schedule to Act VI of 1882.*)

(14) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the Company and may be disposed of in such manner as the Company in general meeting thinks fit.

(21) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of the consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such

amount, and to be divided into shares of such respective amounts, as the company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place as the directors may determine.

(30) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(Appendix II—Table A in the First Schedule to Act VI of 1882.)

(34) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meeting.

(35) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37) No business shall be transacted at any general meeting except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say :—If the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation that no quorum shall in any case exceed twenty.

(38) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die.*

(39) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(*Appendix II.—Table A in the First Schedule to Act VI of 1882.*)

(40) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43) If a poll is demanded by five or more members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and, if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in

respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48) Votes may be given either personally or by proxy.

(49) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, , of , being a member of the Company, Limited, and entitled to vote or votes, hereby appoint , of , as my proxy to vote for me and on my behalf at the [ordinary *or* extraordinary *as the case may be*] general meeting of the Company to be held on the day of , and at any adjournment thereof (*or* at any meeting of the Company that may be held in the year).

As witness my hand, this day of .

Signed by the said in the presence of .

Directors.

(52) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

Powers of Directors.

(55) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with, or done any work for, the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58) At the first ordinary meeting after the registration of the Company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The Company in general meeting may by a special resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committees so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73) No dividend shall be payable except out of the profits arising from the business of the Company.

(74) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or

for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77) No dividend shall bear interest as against the Company.

Accounts.

(78) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meetings, shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any

(*Appendix II.—Table A in the First Schedule to Act VI of 1882.*)

item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86) The auditors may be members of the Company, but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company, and no director or other officer of the Company is eligible during his continuance in office.

(87) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88) The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the Company in general meeting.

(89) Any auditor shall be re-eligible on his quitting office.

(90) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year and fix the remuneration to be paid to him by the Company for his services.

(92) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94) The auditors shall make a report to the members upon the balance-sheet and accounts, and in such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

(95) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

(*Appendix II.—Table A in the First Schedule to Act VI of 1882.*)

FORM OF BALANCE-SHEET REFERRED TO IN TABLE A.

Dr. *Balance-sheet*[a] *of the* *Company made up to* 18 . Cr.

		Capital and Liabilities.	Rs.	As.			Property and Assets.	Rs.	As.
I. Capital.		Showing—			III. Property held by the Company.		Showing—		
	1	The number of shares				7	Immoveable property—distinguishing—		
	2	The amount paid per share					(a) Freehold land		
	3	If any arrears of calls, the nature of the arrear and the names of the defaulters					(b) „ buildings		
	4	The particulars of any forfeited shares					(c) Leasehold		
II. Debts and Liabilities of the Company.		Showing—				8	Moveable property—distinguishing—		
	5	The amount of loans or mortgages or debenture bonds					(d) Stock-in-trade		
	6	The amount of debts owing by the Company—distinguishing—					(e) Plant		
		(a) Debts for which acceptances have been given					The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profi and loss.		
		(b) Debts to tradesmen for supplies of stock-in-trade or other articles			IV. Debts owing to the Company.		Showing—		
		(c) Debts for law expenses				9	Debts considered good for which the Company hold bills or other securities		
		(d) Debts for interest on debentures or other loans				10	Debts considered good for which the Company hold no security		
		(e) Unclaimed dividends				11	Debts considered doubtful and bad		
		(f) Debts not enumerated above					Any debt due from a Director or other officer of the Company to be separately stated.		
VI. Reserve Fund.		Showing—							
		The amount set aside from profits to meet contingencies.							
VII. Profit and Loss.		Showing—			V. Cash and Investments.		Showing—		
		The disposable balance for payment of dividends, etc.				12	The nature of investment and rate of interest		
						13	The amount of cash, where lodged and if bearing interest		
Contingent Liabilities.		Claims against the Company not acknowledged as debts							
		Moneys for which the Company is contingently liable							

[a] See clauses 81 and 82 of the foregoing Table A.

ACT No. VIII OF 1913.[1]

[*27th March, 1913.*]

An Act further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.

XLV of 1860. V of 1898. WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Criminal Law Amendment Act, 1913.

XLV of 1860. **Amendment of section 40, Indian Penal Code.** **2.** In section 40 of the Indian Penal Code, after the word and figures "Chapter IV", the word, figure and letter "Chapter VA" shall be inserted.

Insertion of new Chapter in the Indian Penal Code. **3.** After Chapter V of the said Code, the following Chapter shall be inserted, namely :—

"CHAPTER VA.

CRIMINAL CONSPIRACY.

Definition of criminal conspiracy. 120A. When two or more persons agree to do, or cause to be done,—

(*1*) an illegal act, or

(*2*) an act which is not illegal by illegal means,

such an agreement is designated a criminal conspiracy :

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

Punishment of criminal conspiracy. 120B. (*1*) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1913, Pt. V, p. 44, for Report of the Select Committee, *see ibid*, 1913, Pt. V, p. 119; and for Proceedings in Council, *see ibid*, 1913, Pt. VI, pp. 107, 244, 334 and 349.
It has been declared in force in the Sonthal Parganas by Notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1913 (3 of 1913), *see* B. & O. Gazette, 1917, Pt. II, p. 918.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months or with fine or with both."

Amendment of section 195, Code of Criminal Procedure, 1898.

4. In section 195, sub-section (3), of the Code of Criminal Procedure, 1898, before the words "the abetment" the words "criminal conspiracies to commit such offences and to" shall be inserted. **V of 1898.**

Insertion of new section 196A in Code of Criminal Procedure, 1898.

5. After section 196 of the Code of Criminal Procedure, 1898, the following section shall be inserted, namely :— **V of 1898.**

Prosecution for certain classes of criminal conspiracy.

"196A. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code, **XLV of 1860.**

(1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from the Governor General in Council, the Local Government or some officer empowered by the Governor General in Council in this behalf, or

(2) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, unless the Local Government, or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the Local Government, has, by order in writing, consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub-section (3) of section 195 apply, no such consent shall be necessary."

Amendment of Schedule II of the Code of Criminal Procedure, 1898.

6. In Schedule II of the Code of Criminal Procedure, 1898, after the entries relating to Chapter V, the entries contained in the Schedule hereto annexed shall be inserted. **V of 1898.**

SCHEDULE.

CHAPTER VA.

Criminal Conspiracy.

1	2	3	4	5	6	7	8
120B	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable .	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court. in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class.
	Any other criminal conspiracy.	Shall not arrest without a warrant.	Summons . .	Bailable .	Ditto .	Imprisonment of either description for six months and fine or both.	Presidency Magistrate or Magistrate of the first class"

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